



Author

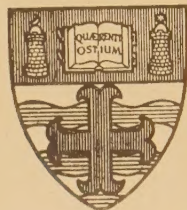
MAHAFFY

Class Mark

S/HE 363-G7 M2

Book No.

14591



UNIVERSITY  
OF NOTTINGHAM  
LIBRARY

UNIVERSITY  
OF NOTTINGHAM  
LIBRARY

UNIVERSITY OF NOTTINGHAM

WITHDRAWN

FROM THE LIBRARY

60 0252878 4

WITHDRAWN  
FROM THE LIBRARY

UNIVERSITY COLLEGE,  
NOTTINGHAM.

LIBRARY.

Economics & Commerce Department.

*Presented by*

*Purchased*

*Catalogue No.*.....

*Shelf No.*.....







Digitized by the Internet Archive  
in 2024

# LAW RELATING TO MOTOR CARS



# MAHAFFY AND DODSON'S LAW

RELATING TO

## MOTOR CARS

BY

ROBERT P. MAHAFFY, B.A.

OF THE INNER TEMPLE AND WESTERN CIRCUIT, BARRISTER-AT-LAW; FORMERLY  
WHEWELL SCHOLAR IN INTERNATIONAL LAW, AND PRINCE CONSORT'S  
PRIZEMAN IN THE UNIVERSITY OF CAMBRIDGE

AND

GERALD DODSON, B.A., LL.B.

OF THE INNER TEMPLE AND SOUTH-EASTERN CIRCUIT, BARRISTER-AT-LAW

---

*SECOND EDITION*

BY

C. S. REWCASTLE

OF THE INNER TEMPLE AND NORTH-EASTERN CIRCUIT,  
BARRISTER-AT-LAW

---

LONDON:

BUTTERWORTH & CO., BELL YARD, TEMPLE BAR.  
SHAW & SONS, LTD., 7 & 8 FETTER LANE, E.C.

SYDNEY: BUTTERWORTH & CO. (AUSTRALIA), LTD.  
CALCUTTA: BUTTERWORTH & CO. (INDIA), LTD.  
WINNIPEG: BUTTERWORTH & CO. (CANADA), LTD.  
WELLINGTON (N.Z.): BUTTERWORTH & CO. (AUSTRALIA), LTD.

---

1923.

A faint, purple ink stamp of the University of London Library is visible at the bottom of the page. The stamp is shield-shaped and contains the text: "UNIVERSITY OF LONDON", "LIBRARY", "MOTOR CARS", "ECONOMICS DEPARTMENT".

C

PRINTED IN ENGLAND BY  
SPOTTISWOODE, BALLANTYNE & CO. LTD.  
COLCHESTER, LONDON AND ETON

## PREFACE

IN preparing a new and revised edition of this treatise, originally published in 1910, I have attempted less to deal with every legal topic, by which those connected with mechanical traction may be affected, than to select those branches of the law which are especially and constantly the concern of motorists and locomotive users.

I have thought it inadvisable, for example, to deal with the law of insurance or the law of sale, because they could not be dealt with exhaustively and any partial consideration could be of no authority and would be likely to mislead rather than to assist the reader.

And, on the other hand, I have not loaded the treatise with a collection of bye-laws, many of which are of limited application and operate only in particular localities.

Within such limits I have assumed the object of such a treatise to be to collect within a handy compass the laws, regulations and orders which govern generally the use of mechanical transport and those operations in which those concerned with it are most usually engaged, and to expound their effect and refer to such authority as exists concerning them.

To so deal with a series of enactments, at once so scattered and so interwoven, has been a task in the fulfilment of which I am conscious of many defects.

But until the law of mechanical traction is dealt with as a whole, and an attempt is made to collect and enact it in some complete and more or less final form, chaos will continue.

At present the foundations of that law are enactments designed for the control of horse-drawn traffic and heavy locomotives, and repeal, revision, legislation by reference,

power of regulation, orders and amending orders have produced the unsatisfactory, incomplete and elusive patchwork of laws by which this great industry is governed and prescribed.

During the rapid growth of the industry this may have been partly inevitable. Now that the industry is established and has won its place in our daily lives it is difficult to excuse a continuance of this state of affairs.

So long, however, as the position is as at present, there must exist the need for such a treatise as this is designed to be, and my hope is that it may play a useful part in acquainting those interested with their rights, duties and obligations.

C. S. REWCASTLE.

4, PAPER BUILDINGS, TEMPLE.

*March 14, 1923.*

# TABLE OF CONTENTS

PREFACE . . . . .	PAGE V
TABLE OF STATUTES . . . . .	ix
TABLE OF CASES . . . . .	xxiii

## CHAPTER I

(A) Introductory . . . . .	1
(B) Construction and Equipment . . . . .	2

## CHAPTER II

### LICENSING, REGISTRATION AND IDENTIFICATION

(A) Licensing of Drivers . . . . .	16
(B) Licensing of Vehicles . . . . .	25
(C) Registration of Vehicles . . . . .	36
(D) Identification Marks . . . . .	38

## CHAPTER III

### TAXATION

(A) Of Motor Cars and Locomotives . . . . .	43
(B) Of Male Servants . . . . .	48
(C) Of Hackney and Stage Carriages . . . . .	50
(D) Application of Duties, Licence Fees and Penalties . . . . .	51

## CHAPTER IV

### MOTOR CARS AND LOCOMOTIVES ON HIGHWAYS

(A) Rights and Duties Generally . . . . .	54
(B) Statutory Offences . . . . .	65

## CHAPTER V

### PROSECUTIONS AND LEGAL PROCEEDINGS

(A) Summary Jurisdiction . . . . .	94
(B) Convictions . . . . .	98
(C) Appeals . . . . .	99
(D) Bias of Justices . . . . .	105

## CHAPTER VI

## GARAGES, REPAIRERS AND STORAGE OF PETROLEUM

(A) Rights and Duties of Garage Proprietors . . . . .	107
(B) Rights and Duties of Repairers . . . . .	109
(C) Storage of Petroleum . . . . .	111

## CHAPTER VII

HIRING AND LOAN OF VEHICLES, CARRIAGE OF GOODS  
AND PASSENGERS AND HIRE-PURCHASE AGREEMENTS

(A) Hiring of Vehicles . . . . .	119
(B) Gratuitous Loan of Vehicles . . . . .	121
(C) Carriage of Goods . . . . .	123
(D) Carriage of Passengers . . . . .	127
(E) Hire-Purchase Agreements . . . . .	130

## CHAPTER VIII

## HIGHWAY LAW

(A) Repair . . . . .	134
(B) Extraordinary Traffic . . . . .	143
(C) Liability of Local Authorities for Damage to Traffic . . . . .	160
(D) Hedges and Trees Prejudicing Highways . . . . .	162
(E) Animals on the Highway . . . . .	163
(F) Closing of Roads to Motor Traffic . . . . .	165
(G) Locomotives on Bridges . . . . .	167
(H) Regulation of Traffic in Metropolis . . . . .	170

## CHAPTER IX

## HACKNEY AND STAGE CARRIAGES

(A) In the Metropolitan Area . . . . .	175
(B) Outside the Metropolitan Area . . . . .	218
(C) Regulation of Public Vehicles . . . . .	227

## CHAPTER X

## INTERNATIONAL LAW

(A) International Travelling Passes . . . . .	238
(B) Temporary Import and Use of Foreign Cars . . . . .	239
(C) Temporary Use of British Cars Abroad . . . . .	244

APPENDIX OF STATUTES AND ORDERS . . . . .	245-391
---	---------

# TABLE OF STATUTES

		PAGE
43 Geo. 3, c. 59.	(Bridges Act, 1803) . . . . .	143
3 Geo. 4, c. 126.	(Turnpike Roads Act, 1822) . . . . .	253
	s. 9 . . . . .	91, 251
9 Geo. 4, c. 43.	(Division of Counties Act, 1828) . . . . .	263
10 Geo. 4, c. 44.	(Metropolitan Police Act, 1829) . . . . .	175
11 Geo. 4 & 1 Will. 4, c. 68.	(Carriers Act, 1830) . . . . .	126
	s. 1 . . . . .	125, 126
	s. 4 . . . . .	125
	s. 6 . . . . .	126
1 & 2 Will. 4, c. 22.	(London Hackney Carriage Act, 1831) . . . . .	200,
		203, 206
	s. 4 . . . . .	193
	s. 27 . . . . .	187
	s. 28 . . . . .	187
	s. 35 . . . . .	202
	s. 36 . . . . .	203
	s. 37 . . . . .	200
	s. 41 . . . . .	207
	s. 44 . . . . .	204
	s. 45 . . . . .	205
	s. 48 . . . . .	200
	s. 56 . . . . .	199
	s. 59 . . . . .	200
	s. 60 . . . . .	200
	s. 62 . . . . .	186
	s. 63 . . . . .	186
	s. 68 . . . . .	187
	s. 70 . . . . .	187
	s. 71 . . . . .	187
2 & 3 Will. 4, c. 120.	(Stage Carriages Act, 1832) . . . . .	190, 211, 234
	s. 7 . . . . .	211
	s. 36 . . . . .	212
	s. 48 . . . . .	209
	s. 49 . . . . .	190
	s. 103 . . . . .	189, 190
	s. 105 . . . . .	190
	s. 109 . . . . .	190
	s. 115 . . . . .	190
3 & 4 Will. 4, c. 48.	(London Hackney Carriages Act, 1833) . . . . .	234
	s. 5 . . . . .	186
	s. 6 . . . . .	186
5 & 6 Will. 4, c. 50.	(Highway Act, 1835) . . . . .	77, 138, 141, 162, 245
	s. 56 . . . . .	245

		PAGE
5 & 6 Will. 4, c. 50.	(Highway Act, 1835)—	
	s. 65 . . . . .	245
	s. 66 . . . . .	162, 246
	s. 72 . . . . .	87, 246
	s. 76 . . . . .	8, 247
	s. 78 . . . . .	60, 77, 81, 85, 87, 247
	s. 79 . . . . .	77
	s. 94 . . . . .	137, 139, 249
	s. 95 . . . . .	139, 140, 250
	s. 96 . . . . .	138, 250
2 & 3 Vict. c. 47.	(Metropolitan Police Act, 1839) .	175, 200
	s. 52 . . . . .	170
	s. 53 . . . . .	217
	(5) . . . . .	78
	(6) . . . . .	87
5 & 6 Vict. c. 79.	(Railway Passenger Duty Act, 1842) .	190,
		211, 234
	ss. 13, 14, 16 . . . . .	212
	s. 18 . . . . .	190
	s. 19 . . . . .	190
	s. 28 . . . . .	217
6 & 7 Vict. c. 86.	(London Hackney Carriages Act, 1843) .	121, 175, 176, 177, 185, 188, 200, 201, 217, 221, 222
	s. 2 . . . . .	175, 187, 188
	s. 7 . . . . .	212, 216
	s. 8 . . . . .	337, 338, 340, 343, 345
	s. 10 . . . . .	176
	s. 14 . . . . .	177, 178
	s. 15 . . . . .	178
	s. 17 . . . . .	181
	s. 18 . . . . .	181, 182
	s. 19 . . . . .	181
	s. 20 . . . . .	182
	s. 21 . . . . .	179, 181
	s. 22 . . . . .	176, 180, 183, 190
	s. 23 . . . . .	183
	s. 24 . . . . .	180
	s. 25 . . . . .	180
	s. 27 . . . . .	187, 210
	s. 28 . . . . .	185, 208
	s. 32 . . . . .	212
	s. 33 . . . . .	218
	s. 35 . . . . .	186, 191
	s. 36 . . . . .	191
	s. 37 . . . . .	191
	s. 38 . . . . .	184, 191, 207
	s. 39 . . . . .	184, 191
	s. 40 . . . . .	191
	s. 41 . . . . .	191
	s. 42 . . . . .	184, 191
	s. 43 . . . . .	191
	s. 44 . . . . .	191

		PAGE
6 & 7 Vict. c. 86.	(London Hackney Carriages Act, 1843)—	
	s. 45 . . . . .	191
	s. 46 . . . . .	191
8 & 9 Vict. c. 20.	(Railways Clauses Consolidation Act, 1845)—	
	s. 77 . . . . .	316
	s. 78 . . . . .	316
	s. 79 . . . . .	316
	s. 80 . . . . .	316
	s. 81 . . . . .	316
	s. 82 . . . . .	316
	s. 83 . . . . .	316
	s. 84 . . . . .	316
	s. 85 . . . . .	316
c. 33.	(Railways Clauses Consolidation (Scotland) Act, 1845)—	
	s. 70 . . . . .	316
	s. 71 . . . . .	316
	s. 72 . . . . .	316
	s. 73 . . . . .	316
	s. 74 . . . . .	316
	s. 75 . . . . .	316
	s. 76 . . . . .	316
	s. 77 . . . . .	316
	s. 78 . . . . .	316
c. 71.	(Highway Act, 1845), s. 95 . . . . .	138
c. 118.	(Inclosure Act, 1845) . . . . .	315, 316
10 & 11 Vict. c. 89.	(Town Police Clauses Act, 1847) . . . . .	77, 192, 218, 219, 220, 222, 223, 234, 235
	s. 1 . . . . .	219
	s. 28 . . . . .	77, 78, 86
	s. 37 . . . . .	224, 235
	s. 38 . . . . .	193, 224, 234
	s. 40 . . . . .	225, 226, 228, 235
	s. 41 . . . . .	226, 228, 235
	s. 42 . . . . .	221, 226, 235
	s. 43 . . . . .	226, 235
	s. 44 . . . . .	227, 235
	s. 45 . . . . .	227, 228, 235
	s. 46 . . . . .	220, 221, 235
	s. 47 . . . . .	220, 221, 235
	s. 48 . . . . .	220, 222, 235
	s. 49 . . . . .	220, 222, 223, 235
	s. 50 . . . . .	220, 221, 227, 235
	s. 51 . . . . .	228, 235
	s. 52 . . . . .	228, 235
	s. 54 . . . . .	229, 235, 236
	s. 55 . . . . .	229
	s. 56 . . . . .	229
	s. 57 . . . . .	229
	s. 58 . . . . .	229, 235, 236
	s. 59 . . . . .	230

10 & 11 Vict. c. 89.	(Town Police Clauses Act, 1847)—	
	s. 60 . . . . .	230, 235
	s. 61 . . . . .	230, 235
	s. 62 . . . . .	230, 235
	s. 63 . . . . .	186, 230, 235
	s. 64 . . . . .	231, 235
	s. 65 . . . . .	234, 235
	s. 66 . . . . .	229, 235, 236
	s. 67 . . . . .	235
	s. 68 . . . . .	227, 231, 232
11 & 12 Vict. c. 42.	(Indictable Offences Act, 1848)—	
	s. 11 . . . . .	97
	s. 12 . . . . .	97
	s. 13 . . . . .	97
	s. 14 . . . . .	97
	s. 15 . . . . .	97
c. 43.	(Summary Jurisdiction Act, 1848)	96, 261
	s. 1 . . . . .	96, 97
	s. 2 . . . . .	95
	s. 3 . . . . .	97
	s. 5 . . . . .	80
	s. 6 . . . . .	95
	s. 7 . . . . .	74
	s. 9 . . . . .	97
	s. 10 . . . . .	95
	s. 13 . . . . .	98
12 & 13 Vict. c. 18.	(Petty Sessions Act, 1849)	263
c. 45.	(Quarter Sessions Act, 1849), s. 1	99
c. lxxvi.	(Commercial Roads Continuance Act, 1849)	252
13 & 14 Vict. c. 7.	(London Hackney Carriages Act, 1850)	175, 201
	s. 4 . . . . .	323
14 & 15 Vict. c. 92.	(Summary Jurisdiction (Ireland) Act, 1851), s. 23	277
15 & 16 Vict. c. 79.	(Inclosure Act, 1852)	316
16 & 17 Vict. c. 33.	(London Hackney Carriage Act, 1853)	202, 205, 209
	s. 2 . . . . .	199, 213
	s. 11 . . . . .	207, 332
	s. 12 . . . . .	201, 206, 213
	s. 13 . . . . .	213
	s. 14 . . . . .	218
	s. 15 . . . . .	208, 213
	s. 16 . . . . .	208
	s. 17 . . . . .	202, 204, 206
	Sched. . . . .	202
c. 127.	(London Hackney Carriage (No. 2) Act, 1853)	213
	s. 16 . . . . .	208
18 & 19 Vict. c. 120.	(Metropolis Management Act, 1855)	
	Sched. A . . . . .	219, 263
	Sched. B . . . . .	219, 263
	Sched. C . . . . .	263

	PAGE
20 & 21 Vict. c. 43.	(Summary Jurisdiction Act, 1857)—
s. 2 . . . . .	101, 102
s. 4 . . . . .	103
s. 6 . . . . .	104
23 & 24 Vict. c. 68.	(South Wales Highways Act, 1860) . . . . .
24 & 25 Vict. c. 70.	(Locomotives Act, 1861) . . . . .
	251, 255, 258,
	259, 265, 268
s. 1 . . . . .	251
s. 2 . . . . .	252
s. 4 . . . . .	91, 252, 265, 358
s. 6 . . . . .	167, 253, 268, 271
s. 7 . . . . .	168, 253
s. 8 . . . . .	254, 260
s. 10 . . . . .	254
s. 12 . . . . .	13, 254
s. 13 . . . . .	255
s. 14 . . . . .	255
c. 100.	(Offences against the Person Act, 1861), s. 35 . . . . .
	77, 230
25 & 26 Vict. c. 61.	(Highway Act, 1862) . . . . .
c. 93.	(Thames Embankment Act, 1862),
	s. 41 . . . . .
	258, 265
27 & 28 Vict. c. 101.	(Highway Act, 1864) . . . . .
	138, 163, 262, 263
	s. 18 . . . . .
	137
	s. 25 . . . . .
	163
	s. 46 . . . . .
	137
28 & 29 Vict. c. 83.	(Locomotives Act, 1865) . . . . .
	253, 255, 258,
	259, 261, 265
s. 1 . . . . .	255
s. 2 . . . . .	254, 255
s. 3 . . . . .	68, 255, 260, 271
(3) . . . . .	92
(4) . . . . .	92
(5) . . . . .	93
s. 4 . . . . .	74, 256
s. 6 . . . . .	59, 256
s. 7 . . . . .	13, 257
s. 9 . . . . .	258
s. 10 . . . . .	258
s. 11 . . . . .	258
s. 12 . . . . .	9, 258
s. 13 . . . . .	258
29 & 30 Vict. c. 122.	(Metropolitan Commons Act, 1866) . . . . .
30 & 31 Vict. c. 134.	(Metropolitan Streets Act, 1867) 170, 191,
	200
s. 2 . . . . .	170
s. 8 . . . . .	218
s. 9 . . . . .	171
s. 10 . . . . .	171
s. 11 . . . . .	171
(2) . . . . .	218
s. 12 . . . . .	191
s. 14 . . . . .	218
s. 24 . . . . .	170

31 & 32 Vict. c. 5.	(Metropolitan Streets (Amendment) Act, 1867) . . . . .	170
32 & 33 Vict. c. 14	(Revenue Act, 1869) . . . . .	26, 43, 49
	s. 18 . . . . .	49
	s. 19 (3). . . . .	48, 276
	(4). . . . .	49
	s. 20 . . . . .	351
	s. 21 . . . . .	351
	s. 22 . . . . .	49, 351
	s. 23 . . . . .	49, 351
	ss. 24, 25 . . . . .	49
	s. 27 . . . . .	48
	s. 30 . . . . .	49
	s. 39 . . . . .	217, 223
c. 115.	(Metropolitan Public Carriage Act, 1869) . . . . .	175, 176, 178, 179, 189, 191, 192, 198, 200, 201, 205, 211, 213, 217, 324, 327, 328, 329, 333, 334, 335, 336, 337, 338, 339, 340, 342, 343, 344, 345
	s. 4 . . . . .	188, 193
	s. 5 . . . . .	188
	s. 6 . . . . .	195, 197, 324
	s. 7 . . . . .	191
	s. 8 . . . . .	176, 177, 189, 328
	s. 9 . . . . .	329
	(2) . . . . .	201
	s. 10 . . . . .	330, 332
	s. 11 . . . . .	194, 324
	s. 12 . . . . .	194
	s. 13 . . . . .	191
	s. 15 . . . . .	175, 176, 192
	s. 30 . . . . .	201
33 & 34 Vict. c. 78.	(Tramways Act, 1870) . . . . .	224
34 & 35 Vict. c. 105.	(Petroleum Act, 1871) . . . . .	107, 111, 112, 115, 117, 118, 264, 304, 305, 306
	s. 3 . . . . .	112
	s. 6 . . . . .	113
	s. 7 . . . . .	113
	s. 8 . . . . .	113
	s. 9 . . . . .	113
	s. 10 . . . . .	114
	s. 11 . . . . .	114
	s. 12 . . . . .	114
	s. 14 . . . . .	112
	s. 15 . . . . .	114
35 & 36 Vict. c. 15.	(Parks Regulation Act, 1872) . . . . .	24
c. 94.	(Licensing Act, 1872), s. 12 . . . . .	230
38 & 39 Vict. c. 55.	(Public Health Act, 1875) . . . . .	138, 192, 209, 219, 231, 232, 263, 266, 270, 359
	s. 4 . . . . .	219
	s. 6 . . . . .	219
	s. 126 . . . . .	231, 236

		PAGE
38 & 39 Vict. c. 55.	(Public Health Act, 1875)—	
	s. 127 . . . . .	231, 236
	s. 144 . . . . .	137, 142
	s. 171 . . . . .	192, 219, 224
	s. 176 . . . . .	224
	s. 178 . . . . .	314
	s. 182 . . . . .	232
	s. 183 . . . . .	232, 233
	s. 184 . . . . .	232, 268
	s. 185 . . . . .	232, 233, 268
	s. 186 . . . . .	232, 268
	s. 251 . . . . .	233
39 & 40 Vict. c. 16.	(Customs and Inland Revenue Act, 1876)	43
	s. 5 . . . . .	48, 276
c. 56.	(Commons Act, 1876)	315
41 & 42 Vict. c. 51.	(Roads and Bridges (Scotland) Act, 1878)	358
	s. 57 . . . . .	144, 358
c. 52.	(Public Health (Ireland) Act, 1878)	359
c. 58.	(Locomotives Amendment (Scotland) Act, 1878)—	
	s. 3 (3) . . . . .	358
	s. 5 . . . . .	9, 265
c. 77.	(Highways and Locomotives (Amendment) Act, 1878)	10, 12, 138, 256, 258, 265, 271, 287, 301, 369
	s. 10 . . . . .	138, 140, 141, 142
	s. 13 . . . . .	139
	s. 15 . . . . .	139
	s. 23 . . . . .	55, 91, 144, 145, 153, 156, 160, 258, 266, 269
	s. 26 . . . . .	258
	s. 28 . . . . .	252, 259, 287, 302, 358
	(1). . . . .	12, 288
	(2). . . . .	12, 260, 288
	(3). . . . .	10, 357, 358
	(4). . . . .	12, 265, 287, 288, 301, 302
	s. 30 . . . . .	9, 254, 260
	s. 33 . . . . .	261
	s. 34 . . . . .	261
	s. 35 . . . . .	261
	s. 36 . . . . .	261
	s. 37 . . . . .	262
	s. 38 . . . . .	262
42 & 43 Vict. c. 47.	(Petroleum Act, 1879)	111, 264, 304
	s. 2 . . . . .	112
	Sched. I . . . . .	112
c. 49.	(Summary Jurisdiction Act, 1879)—	
	s. 20 . . . . .	77
	s. 31 (1). . . . .	99
	(2). . . . .	100

42 & 43 Vict. c. 49.	(Summary Jurisdiction Act, 1879)—	
	s. 31 (3).	101
	(7).	100
	s. 33	101
	(2).	102
	s. 39	95
c. 57.	(Public Health (Ireland) Amendment Act, 1879), s. 6	265
44 & 45 Vict. c. 67.	(Petroleum (Hawkers) Act, 1881).	264
45 & 46 Vict. c. 43.	(Bills of Sale Act (1878) Amendment Act, 1882), s. 5	131
47 & 48 Vict. c. 43.	(Summary Jurisdiction Act, 1884)	262
48 & 49 Vict. c. 13.	(Highway Act Amendment Act, 1885)	245
	s. 2	163
c. 18.	(Metropolitan Streets Act, 1885), s. 2	170
c. 75.	(Prevention of Crimes Amendment Act, 1885), s. 2	72
51 Vict. c. 8.	(Customs and Inland Revenue Act, 1888), s. 4	50, 346, 348, 351
51 & 52 Vict. c. 41.	(Local Government Act, 1888)	138
	s. 3	143
	s. 6	143
	s. 11	139
	s. 40	219
	s. 41 (4) (a)	10
	s. 63	268
	s. 79	140
	s. 87 (1).	276, 277
	(5).	276, 277
	s. 100	219
52 & 53 Vict. c. 14.	(Towns Police Clauses Act, 1889).	222, 223, 234, 236
	s. 2	219, 233
	s. 3	193, 223, 235
	s. 4	223, 235
	(2)	220
	s. 5	221
	s. 6	235, 236
c. 45.	(Factors Act, 1889)	131
c. 49.	(Arbitration Act, 1889)	266, 358, 359
c. 50.	(Local Government (Scotland) Act, 1889)—	
	s. 93 (1).	277
	(3).	277
c. 63.	(Interpretation Act, 1889)	282, 386
54 & 55 Vict. c. 76.	(Public Health (London) Act, 1891)	209
	s. 70	209
55 & 56 Vict. c. 19.	(Statute Law Revision Act, 1892)	251
56 Vict. c. 14.	(Statute Law Revision Act, 1893)	255
56 & 57 Vict. c. 61.	(Public Authorities Protection Act, 1893)	134, 156
	s. 1	162

## TABLE OF STATUTES

xvii

		PAGE
56 & 57 Vict. c. 66.	(Rules Publication Act, 1893), s. 2	361, 382
c. 71.	(Sale of Goods Act, 1893) . . . . .	131
	s. 24(1) . . . . .	132
	s. 25 . . . . .	131
c. 73.	(Local Government Act, 1894) . . . . .	138
	s. 6 . . . . .	142
	s. 21 . . . . .	219
	s. 25 . . . . .	137, 142
	s. 27 . . . . .	113
	s. 32 . . . . .	113
57 & 58 Vict. c. 56.	(Statute Law Revision Act, 1894)	259, 260
c. 60.	(Merchant Shipping Act, 1894), s. 446 .	124
59 & 60 Vict. c. 9.	(Local Government (Determination of Differences) Act, 1896) . . . . .	268
c. 27.	(London Cab Act, 1896) . . . . .	207, 229
c. 36.	(Locomotives on Highways Act, 1896) 1, 2, 16, 17, 24, 51, 93, 107, 114, 156, 263, 271, 272, 274, 276, 278, 280, 287, 289, 290, 294, 295, 301, 348, 353, 354, 359, 360, 361	
	s. 1 . . . . .	10, 11, 16, 215, 263, 294
	(1) (b) . . . . .	174
	s. 2 . . . . .	66, 264, 289, 291
	s. 3 . . . . .	8, 88, 264, 293
	s. 5 . . . . .	111, 112, 114, 264, 304, 307
	s. 6 . . . . .	71, 264, 274, 276, 278, 280, 289, 294
	(1) . . . . .	166
	(2) . . . . .	166
	s. 7 . . . . .	166, 265, 278, 289, 294, 304
	s. 9 . . . . .	12, 265, 287, 302
	Sched. . . . .	263, 265
61 & 62 Vict. c. 22.	(Statute Law Revision Act, 1898)	259, 260
c. 29.	(Locomotives Act, 1898) . . . . .	55, 91, 265, 271, 300
	s. 1 . . . . .	91, 253, 265
	s. 2 . . . . .	91, 254, 266
	s. 3 . . . . .	90, 266
	s. 4 . . . . .	92, 266, 358
	(3) . . . . .	358
	s. 5 . . . . .	256, 266
	(1) . . . . .	90
	(a) . . . . .	89
	(b) . . . . .	89
	(c) . . . . .	90
	(2) . . . . .	90
	(3) . . . . .	68
	s. 6 . . . . .	168, 267
	(3) . . . . .	168
	s. 7 . . . . .	167, 268
	s. 8 . . . . .	167, 269
	s. 12 . . . . .	144, 145, 153, 156, 269
	(1) . . . . .	157
	(b) . . . . .	154, 155

	PAGE
61 & 62 Vict. c. 29.	(Locomotive Act, 1898)—
s. 13 . . . . .	269
(1) . . . . .	93
(2) . . . . .	93
s. 14 . . . . .	270
s. 15 . . . . .	270
s. 16 . . . . .	270
s. 17 . . . . .	90, 270
(1) . . . . .	360
(2) . . . . .	156
s. 18 . . . . .	74, 253, 256, 260, 261, 271
s. 19 . . . . .	271
s. 20 . . . . .	271
c. 36.	(Criminal Evidence Act, 1898)—
s. 1 . . . . .	278
s. 2 . . . . .	278
s. 3 . . . . .	278
s. 4 . . . . .	278
c. 43.	(Metropolitan Commons Act, 1898) . . . . .
62 & 63 Vict. c. 14.	(London Government Act, 1899) . . . . .
c. 30.	(Commons Act, 1899) . . . . .
3 Edw. 7, c. 36.	(Motor Car Act, 1903) . . . . .
	16, 17, 24, 25, 36, 46, 51, 72, 77, 86, 93, 99, 218, 221, 237, 264, 272, 276, 278, 280, 281, 285, 286, 289, 290, 294, 296, 308, 318, 319, 348, 353, 354, 359, 361, 380, 381
s. 1 . . . . .	75, 81, 97, 272
(1) . . . . .	80, 82
(2) . . . . .	20, 80, 381
(3) . . . . .	81
s. 3 . . . . .	16, 20, 51, 272, 279, 381
(1) . . . . .	24
(2) . . . . .	18
(3) . . . . .	20
(4) . . . . .	83, 381
(5) . . . . .	17
s. 4 . . . . .	20, 22, 86, 273, 281, 352
(1) . . . . .	20, 72
(a) . . . . .	381
(b) . . . . .	18
(c) . . . . .	352, 381
(2) . . . . .	352, 381
(3) . . . . .	381
(4) . . . . .	22, 99
(5) . . . . .	18, 22, 23, 381
s. 6 . . . . .	83, 273
s. 7 . . . . .	274, 280, 289
(2) . . . . .	360
s. 9 . . . . .	69, 70, 71, 94, 97, 166, 275
(3) . . . . .	71
(4) . . . . .	71
s. 10 . . . . .	165, 275, 352

		PAGE
3 Edw. 7, c. 36.	(Motor Car Act, 1903)—	
	s. 11 . . . . .	22, 23, 81, 82, 276
	s. 12 . . . . .	17, 276, 294
	(2) . . . . .	74, 353
	s. 13 . . . . .	43, 48, 276
	s. 14 . . . . .	276
	s. 15 . . . . .	276
	s. 16 . . . . .	276
	s. 17 . . . . .	170, 276
	s. 18 . . . . .	277
	s. 19 . . . . .	277
	s. 20 . . . . .	16, 278
	(1) . . . . .	16, 289
	s. 21 . . . . .	278
7 Edw. 7, c. 53.	(Public Health Acts (Amendment) Act, 1907)—	
	s. 79 . . . . .	76
	s. 81 . . . . .	78
c. 55.	(London Cab and Stage Carriage Act, 1907) 179, 200, 324, 329, 333, 334, 335	
	s. 1 . . . . .	203, 329
	s. 3 . . . . .	188, 213, 214, 327
	s. 4 . . . . .	213
	s. 6 . . . . .	203
	(1) . . . . .	188
	(3) . . . . .	213, 214
8 Edw. 7, c. 36.	(Small Holdings and Allotments Act, 1908) . . . . .	309
c. 48.	(Post Office Act, 1908), s. 68 . . . . .	201
c. 53.	(Law of Distress Amendment Act, 1908), s. 4 (1) . . . . .	133
9 Edw. 7, c. 37.	(Motor Car (International Circulation) Act, 1909) . . . . .	237, 308, 318, 353
	s. 1 . . . . .	308, 318, 380
	s. 2 . . . . .	308
c. 47.	(Development and Road Improvement Funds Act, 1909) 52, 308, 316, 348, 349, 350, 359, 360	
	s. 1 . . . . .	309
	s. 2 . . . . .	309
	s. 3 . . . . .	310
	s. 4 . . . . .	311, 359
	s. 5 . . . . .	311, 316
	(3) . . . . .	314
	s. 6 . . . . .	312
	s. 8 . . . . .	312, 359
	(1) (a) . . . . .	359
	(5) . . . . .	359
	s. 9 . . . . .	312, 359
	s. 10 . . . . .	313, 359
	s. 11 . . . . .	313, 316, 359
	(1) . . . . .	359
	(6) . . . . .	359

		PAGE
9 Edw. 7, c. 47.	(Development and Road Improvement Funds Act, 1909)—	
	s. 13 . . . . .	314, 359
	s. 15 . . . . .	314
	s. 16 . . . . .	314
	s. 17 . . . . .	315
	s. 18 . . . . .	315
	s. 19 . . . . .	315, 359
	s. 20 . . . . .	316
	Sched. . . . .	314, 316, 317, 359
c. lxvii.	(City of London (Street Traffic) Act, 1909) . . . . .	171, 218
1 & 2 Geo. 5, c. 27.	(Protection of Animals Act, 1911) . . . . .	195, 324
c. 45.	(Public Roads (Ireland) Act, 1911) . . . . .	144
	s. 2 . . . . .	358
	s. 5 . . . . .	9, 10
4 & 5 Geo. 5, c. 59.	(Bankruptcy Act, 1914), s. 38 (2) (c) . . . . .	133
6 & 7 Geo. 5, c. 50.	(Larceny Act, 1916) . . . . .	132
8 & 9 Geo. 5, c. 34.	(Statutory Undertakings (Temporary Increase of Charges) Act, 1918) . . . . .	217
9 & 10 Geo. 5, c. 16.	(Public Health (Medical Treatment of Children) (Ireland) Act, 1919) . . . . .	359
c. 50.	(Ministry of Transport Act, 1919)—	
	s. 17 (2) . . . . .	350
10 & 11 Geo. 5, c. 14.	(Tramways (Temporary Increase of Charges) Act, 1920) . . . . .	217
c. 18.	(Finance Act, 1920) . . . . .	25, 43, 345, 348, 356, 370, 382, 385, 389, 391
	s. 13 . . . . .	44, 50, 239, 345, 348, 351, 353, 356, 361, 382, 383
	(2) (a) . . . . .	391
	(b) . . . . .	391
	(4) . . . . .	28, 43
	(5) . . . . .	386
	Sched. II. . . . .	44, 48, 50, 345, 346, 353, 354, 367, 368, 389
	Sched. IV. . . . .	265
c. 67.	(Government of Ireland Act, 1920)—	
	s. 6 . . . . .	381, 386, 390
c. 72.	(Roads Act, 1920) . . . . .	11, 23, 25, 26, 36, 41, 43, 44, 45, 51, 52, 165, 237, 242, 272, 295, 308, 348, 359, 361, 366, 370, 380, 381, 382, 383, 384, 385
	s. 1 . . . . .	43, 348
	(1) . . . . .	26
	(2) . . . . .	26
	(3) . . . . .	26
	(4) . . . . .	51
	s. 2 . . . . .	52, 349
	s. 3 . . . . .	52, 349
	(4) . . . . .	52
	s. 4 . . . . .	350

## TABLE OF STATUTES

xxi

PAGE

10 &amp; 11 Geo. 5, c. 72.

(Roads Act, 1920)—

s. 5	.	.	.	.	.	27, 351
(3)	.	.	.	.	.	29
s. 6	.	.	.	.	.	351
(1)	.	.	.	.	.	36, 38
(2)	.	.	.	.	.	42, 67
s. 7	.	.	.	.	.	170, 264, 345, 352
(1)	.	.	.	.	.	275
(2)	.	.	.	.	.	273
(3)	.	.	.	.	.	23
(4)	.	.	.	.	.	165, 166, 274, 371
(5)	.	.	.	.	.	75, 276
(6)	.	.	.	.	.	17, 25, 46, 276
(7)	.	.	.	.	.	51, 272
(8)	.	.	.	.	.	237, 308
s. 8	.	.	.	.	.	345, 353
(1)	.	.	.	.	.	25, 44
(2)	.	.	.	.	.	45
(3)	.	.	.	.	.	35, 46
(4)	.	.	.	.	.	45
(5)	.	.	.	.	.	46
s. 9	.	.	.	.	.	32, 354
(1)	.	.	.	.	.	31
(b)	.	.	.	.	.	33
(c)	.	.	.	.	.	33
(3)	.	.	.	.	.	32
s. 10	.	.	.	.	.	354
s. 11	.	.	.	.	.	355
(1)	.	.	.	.	.	50
(2)	.	.	.	.	.	50
(3)	.	.	.	.	.	50
s. 12	.	.	.	.	.	355
(1) (c)	.	.	.	.	.	39
(4)	.	.	.	.	.	34, 36, 41, 42, 166
s. 13	.	.	.	.	.	43, 356
(1)	.	.	.	.	.	34
(2)	.	.	.	.	.	35, 41
(3)	.	.	.	.	.	35, 41, 45
(4)	.	.	.	.	.	35, 41
(5)	.	.	.	.	.	51
s. 14	.	.	.	.	.	196, 357
(3)	.	.	.	.	.	223, 225
s. 15	.	.	.	.	.	10, 357
s. 16	.	.	.	.	.	358
s. 17	.	.	.	.	.	358
s. 18	.	.	.	.	.	358
s. 19	.	.	.	.	.	358
(3)	.	.	.	.	.	371
s. 20	.	.	.	.	.	359
(3)	.	.	.	.	.	25
Sched. I.						311, 312, 313, 314, 315, 316, 351, 359
Sched. II.						165, 275, 353, 359

		PAGE
10 & 11 Geo. 5, c. 72.	(Roads Act, 1920)—	
	Sched. III. .	264, 269, 270, 271, 272, 273, 274, 359, 360
11 & 12 Geo. 5, c. 32.	(Finance Act, 1921) . . .	43, 391
	s. 10 (1) . . .	49
	s. 22 . . .	345, 389
12 & 13 Geo. 5, c. 17.	(Finance Act, 1922) . . .	43
	s. 15 . . .	31, 32
c. 50.	(Expiring Laws Act, 1922), s. 1 . . .	255

# TABLE OF CASES

## A.

	PAGE
ABINGDON Rural Council <i>v.</i> Oxford City Electric Tramways, Ltd., [1917] 2 K. B. 318; 86 L. J. (κ. B.) 1247; 117 L. T. 133; 81 J. P. 189; 33 T. L. R. 319; 15 L. G. R. 446, C.A. . . . .	150, 152
Abrahams <i>v.</i> Bullock (1902), 86 L. T. 796; 50 W. R. 626; 18 T. L. R. 701, C.A. . . . .	121
Ackroyd <i>v.</i> Barrett (1894), 11 T. L. R. 115 . . . . .	77
Acton Urban District Council <i>v.</i> London United Tramways Co., [1909] 1 K. B. 68; 78 L. J. (κ. B.) 78; 100 L. T. 80; 73 J. P. 6; 53 Sol. Jo. 62; 7 L. G. R. 20 . . . . .	136
Adams <i>v.</i> Lancashire and Yorkshire Ry. Co. (1869), L. R. 4 C. P. 739; 38 L. J. (c. P.) 277; 20 L. T. 850; 17 W. R. 884 . . . .	129
Allen <i>v.</i> Tunbridge (1871), L. R. 6 C. P. 481; 40 L. J. (m. c.) 197; 24 L. T. 796; 19 W. R. 849 . . . . .	193
Alliance and Dublin Consumers Gas Co. <i>v.</i> Dublin County Council, [1901] 1 I. R. 492; 35 I. L. T. 17, C.A. . . . .	58
Amesbury Guardians <i>v.</i> Wilts JJ. (1883), 10 Q. B. D. 480; 52 L. J. (m. c.) 64; 47 J. P. 184; 31 W. R. 521 . . . . .	136
Anderson <i>v.</i> Reid (1902), 86 L. T. 713; 66 J. P. 564; 18 T. L. R. 463	104
Appleyard <i>v.</i> Bangham, [1914] 1 K. B. 258; 83 L. J. (κ. B.) 193; 110 L. T. 34; 77 J. P. 448; 30 T. L. R. 13; 23 Cox, C. C. 730; 11 L. G. R. 1220 . . . . .	116
Armagh Union Guardians <i>v.</i> Bell, [1900] 2 I. R. 371; 34 I. L. T. 99, C.A. . . . .	58
Aspinall <i>v.</i> Sutton, [1894] 2 Q. B. 349; 63 L. J. (m. c.), 205; 58 J. P. 622; 10 R. 465 . . . . .	104
Att.-Gen. <i>v.</i> Blackpool Corporation (1907), 71 J. P. 478 . . . .	136
——— <i>v.</i> Brighton and Hove, etc., Association, [1900] 1 Ch. 276; 69 L. J. (CH.) 204; 81 L. T. 762; 48 W. R. 314; 16 T. L. R. 144, C.A. . . . .	56
——— (Pickfords, Ltd.) <i>v.</i> Great Northern Ry. Co., [1915] W. N. 263; 84 L. J. (CH.) 793; 80 J. P. 9; 31 T. L. R. 501; 59 Sol. Jo. 578; 13 L. G. R. 998, C.A. . . . .	137
——— <i>v.</i> Scott, [1904] 1 K. B. 404; 73 L. J. (κ. B.) 196; 89 L. T. 726; 68 J. P. 137; 2 L. G. R. 461; affirmed, [1905] 2 K. B. 160; 74 L. J. (κ. B.) 803; 93 L. T. 249; 69 J. P. 109; 21 T. L. R. 211; 3 L. G. R. 272, C.A. . . . .	9, 55, 58, 135, 149, 152, 160
——— <i>v.</i> Smith (W. H.) & Son (1910), 103 L. T. 96; 74 J. P. 313; 26 T. L. R. 482; 8 L. G. R. 679 . . . . .	56

The Motor Union Digest reports are referred to as "M. U. D."

	PAGE
Att.-Gen. <i>v.</i> Staffordshire County Council, [1905] 1 Ch. 336; 74 L. J. (CH.) 153; 92 L. T. 288; 69 J. P. 97; 53 W. R. 312; 21 T. L. R. 139; 3 L. G. R. 379 . . . . .	139
——— <i>v.</i> West Riding of Yorkshire (1903), 67 J. P. 173 . . . . .	142
Auld <i>v.</i> Pearson, [1914] S. C. (J.) 4; 51 Sc. L. R. 43 . . . . .	75
Aveland (Lord) <i>v.</i> Lucas (1879), 5 C. P. D. 211; affirmed (1880), 5 C. P. D. 351; 49 L. J. (C. P.) 643; 42 L. T. 788; 44 J. P. 360; 28 W. R. 571, C.A. . . . .	148, 149, 150, 159

## B.

BANTON <i>v.</i> Davies (1892), 66 L. T. 192; 56 J. P. 294; 17 Cox, C. C. 469 . . . . .	182, 220, 225
Bantwick <i>v.</i> Rogers (1891), 7 T. L. R. 542 . . . . .	9, 57
Barbour <i>v.</i> South Eastern Ry. Co. (1876), 34 L. T. 67 . . . . .	124
Barker <i>v.</i> Edger, [1898] A. C. 748; 67 L. J. (P. C.) 115; 79 L. T. 151 . . . . .	192
Barnes Urban District Council <i>v.</i> Vanguard, etc., Co. (1908), 100 L. T. 115; 73 J. P. 68; 7 L. G. R. 359 . . . . .	64, 65
Barnett <i>v.</i> Hoo Highway Board (1882), 46 J. P. 805 . . . . .	153
Barnsley British Co-operative Society, Ltd. <i>v.</i> Worsborough Urban Council, [1916] A. C. 291; 85 L. J. (K. B.) 103; 113 L. T. 1121; 80 J. P. 114; 32 T. L. R. 41; 59 Sol. Jo. 25; 14 L. G. R. 22 . . . . .	146, 151
Bartlett, <i>Ex parte</i> (1860), 3 E. & E. 253; 30 L. J. (M. C.) 65; 3 L. T. 316; 6 Jur. (N. S.) 1196; 9 W. R. 54 . . . . .	137
Bastable <i>v.</i> Little, [1907] 1 K. B. 59; 76 L. J. (K. B.) 77; 96 L. T. 115; 71 J. P. 52; 23 T. L. R. 38; 21 Cox, C. C. 354; 5 L. G. R. 279 . . . . .	72
Bateson <i>v.</i> Oddy (1874), 43 L. J. (M. C.) 131; 30 L. T. 712; 22 W. R. 703 . . . . .	193
Beard <i>v.</i> London General Omnibus Co., Ltd., [1900] 2 Q. B. 530; 69 L. J. (Q. B.) 895; 83 L. T. 362; 48 W. R. 658; 16 T. L. R. 499, C.A. . . . .	185
Beecham, <i>Ex parte</i> , [1913] 3 K. B. 45; 82 L. J. (K. B.) 905; 109 L. T. 442; 29 T. L. R. 586; 23 Cox, C. C. 571 . . . . .	82
Belsize Motor Supply Co. <i>v.</i> Cox, [1914] 1 K. B. 244; 83 L. J. (K. B.) 261; 110 L. T. 151 . . . . .	131
Benford <i>v.</i> Sims, [1898] 2 Q. B. 641; 67 L. J. (Q. B.) 655; 78 L. T. 718; 47 W. R. 46; 14 T. L. R. 424; 19 Cox, C. C. 141 . . . . .	71, 80
Benjamin <i>v.</i> Storr (1874), L. R. 9 C. P. 400; 43 L. J. (C. P.) 162; 30 L. T. 362; 22 W. R. 631 . . . . .	56
Bennett <i>v.</i> Blackpool Local Board of Health. <i>See</i> Blackpool Local Board of Health <i>v.</i> Bennett	
Beresford <i>v.</i> Richardson, [1921] 1 K. B. 243; 90 L. J. (K. B.) 313; 124 L. T. 274; 85 J. P. 60; 37 T. L. R. 53; 26 Cox, C. C. 673; 18 L. G. R. 855 . . . . .	75, 79
——— <i>v.</i> St. Albans JJ. (1905), 22 T. L. R. 1. . . . .	69, 70, 79
Bernina, The. <i>See</i> Mills <i>v.</i> Armstrong, The Bernina.	
Betts <i>v.</i> Stevens, [1910] 1 K. B. 1; 79 L. J. (K. B.) 17; 101 L. T. 564; 73 J. P. 486; 26 T. L. R. 5; 7 L. G. R. 1052 . . . . .	72, 102
Biggins, <i>Ex parte</i> (1862), 26 J. P. 244 . . . . .	95
Billericay Rural Council <i>v.</i> Poplar Guardians, [1911] 2 K. B. 801; 80 L. J. (K. B.) 1241; 105 L. T. 476; 75 J. P. 497; 55 Sol. Jo. 647; 9 L. G. R. 796, C.A. . . . .	147, 150

# TABLE OF CASES

XXV

	PAGE
Birmingham Motor Omnibus Co. v. Thompson, [1918] 2 K. B. 105 ; 87 L. J. (κ. B.) 915 ; 119 L. T. 140 ; 82 J. P. 213 ; 16 L. G. R. 544	223
Bishop v. Toler (1895), 65 L. J. (m. c.) 1 ; 73 L. T. 402 ; 59 J. P. 807 ; 44 W. R. 189 ; 18 Cox, C. C. 199 ; 15 R. 607 . . . . .	102
Blackpool Local Board of Health v. Bennett (1859), 4 H. & N. 127 ; 28 L. J. (m. c.) 203 ; 7 W. R. 382 . . . . .	193, 233
Blackpool Tramroad Co. v. Bailey, [1920] 1 K. B. 380 ; 89 L. J. (κ. B.) 784 ; 122 L. T. 275 ; 84 J. P. 1 ; 17 L. G. R. 749 . . . . .	224
Bolton v. Everett (1911), 105 L. T. 830 ; 75 J. P. 534 ; 22 Cox, C. C. 632 ; 9 L. G. R. 1052 . . . . .	60
Boss v. Litton (1832), 5 Car. & P. 407 . . . . .	59
Bothamley v. Danby (1871), 24 L. T. 656 . . . . .	164
Brabant v. King, [1895] A. C. 632 ; 64 L. J. (p. c.) 161 ; 72 L. T. 785 ; 44 W. R. 157 ; 11 R. 517 . . . . .	107
Brady v. Giles (1835), 1 Mood. & R. 494 . . . . .	121
Brass v. Maitland (1856), 6 E. & B. 470 ; 26 L. J. (Q. B.) 49 ; 2 Jur. (N. S.) 710 ; 4 W. R. 647 . . . . .	124
Breen v. Tyrone County Council (1908), 42 I. L. T. 250 . . . . .	161
Bremner v. Williams (1824), 1 C. & P. 414 . . . . .	128
British Berna Motor Lorries, Ltd. v. International Transport Co., Ltd. (1915), 31 T. L. R. 200 . . . . .	131
British Wagon Co. v. Lea (1880), 5 Q. B. D. 149 ; 49 L. J. (Q. B.) 321 ; 42 L. T. 437 ; 44 J. P. 440 ; 28 W. R. 349 . . . . .	110
Bromley Rural Council v. Croydon Corporation (or Wood), [1907] 2 K. B. 39 ; 76 L. J. (κ. B.) 599 ; 97 L. T. 173 ; 71 J. P. 166 ; 5 L. G. R. 453 ; reversed, [1908] 1 K. B. 353 ; 77 L. J. (κ. B.) 335 ; 98 L. T. 165 ; 72 J. P. 17 ; 24 T. L. R. 132 ; 6 L. G. R. 165, C.A. . . . . .	148, 152, 153, 154, 155
Bromley Rural District Council v. Chittenden (1906), 70 J. P. 409 ; 4 L. G. R. 967, C.A. . . . .	146, 148, 152, 153, 158
Brooke v. Pickwick (1827), 4 Bing. 218 ; 12 Moore, (C. P.) 447 ; 5 L. J. (O. S.) (C. P.) 158 . . . . .	123
Brotherton v. Tittensor (1896), 60 J. P. 72 . . . . .	84
Brown v. Crossley, [1911] 1 K. B. 603 ; 80 L. J. (κ. B.) 478 ; 104 L. T. 429 ; 75 J. P. 177 ; 27 T. L. R. 194 ; 9 L. G. R. 194 . . . . .	21
Bullen v. Wakely (1898), 77 L. T. 689 ; 62 J. P. 166 ; 18 Cox, C. C. 692 . . . . .	163
Burton v. Nicholson, [1909] 1 K. B. 397 ; 78 L. J. (κ. B.) 295 ; 100 L. T. 344 ; 73 J. P. 107 ; 25 T. L. R. 216 ; 7 L. G. R. 535 . . . . .	63
Butt (Henry) & Co. v. Weston-super-Mare Urban Council, [1922] 1 A. C. 340 ; 91 L. J. (CH.) 305 ; 127 L. T. 34 ; 86 J. P. 113 ; 38 T. L. R. 406 ; 66 Sol. Jo. 332 ; 20 L. G. R. 397 . . . . .	147, 148, 149, 150, 151, 152
Button, <i>Re, Ex parte</i> Haviside, [1907] 2 K. B. 180 ; 76 L. J. (κ. B.) 833 ; 97 L. T. 71 ; 23 T. L. R. 422 ; 14 Mans. 180, C.A. . . . .	133

## C.

CALDWELL v. Hague (1914), 84 L. J. (κ. B.) 543 ; 112 L. T. 502 ; 79 J. P. 152 ; 24 Cox, C. C. 595 ; 13 L. G. R. 297 . . . . .	34
Cambridgeshire County Council v. Pepper and Hollis (1912), 76 J. P. 393 ; 10 L. G. R. 759 . . . . .	150, 159
Campbell v. Train, [1910] S. C. 556 ; 47 Sc. L. R. 475 . . . . .	63

	PAGE
Cannon <i>v.</i> Jefford, [1915] 3 K. B. 477; 84 L. J. (K. B.) 1897; 113 L. T. 701; 79 J. P. 478; 31 T. L. R. 489; 13 L. G. R. 944	5
Carlisle Rural Council <i>v.</i> Carlisle Corporation, [1909] 1 K. B. 471; 78 L. J. (K. B.) 307; 100 L. T. 216; 73 J. P. 121; 25 T. L. R. 237; 53 Sol. Jo. 228; 7 L. G. R. 268, C.A.	155, 156
Case <i>v.</i> Storey (1869), L. R. 4 Ex. 319; 38 L. J. (M. C.) 113; 20 L. T. 618; 17 W. R. 802	194, 202
Cavan County Council and Bailieborough Rural District Council <i>v.</i> Kane Brothers, [1910] 2 I. R. 644	55
Cavill <i>v.</i> Amos (1900), 64 J. P. 309; 16 T. L. R. 156	193
Chaplin <i>v.</i> Hawes (1828), 3 C. & P. 554	61
Chapman <i>v.</i> Rawlings (1909), 101 L. T. 605; 73 J. P. 512; 26 T. L. R. 15; 54 Sol. Jo. 49; 7 L. G. R. 1153	56
Chertsey Urban District Council <i>v.</i> Binns (1905), 69 J. P. N. 28	157
Chesham Automobile Supply, Ltd. <i>v.</i> Beresford Hotel (Birchington), Ltd. (1913), 29 T. L. R. 584	109, 111
Cheshire <i>v.</i> Bailey, [1905] 1 K. B. 237; 74 L. J. (K. B.) 176; 92 L. T. 142; 53 W. R. 322; 21 T. L. R. 130, C.A.	119, 121
Chesterfield Rural District Council <i>v.</i> Newton, [1904] 1 K. B. 62; 73 L. J. (K. B.) 24; 89 L. T. 466; 68 J. P. 33; 52 W. R. 129; 20 T. L. R. 6; 2 L. G. R. 45, C.A.	146, 154, 157
Chichester Corporation <i>v.</i> Foster, [1906] 1 K. B. 167; 75 L. J. (K. B.) 33; 93 L. T. 750; 70 J. P. 73; 54 W. R. 199; 22 T. L. R. 18; 4 L. G. R. 205	58
Cholerton <i>v.</i> Copping (1906), 70 J. P. 484	80
Christie <i>v.</i> Griggs (1809), 2 Camp. 79	120
City of Lincoln, The (1889), 15 P. D. 15; 59 L. J. Adm. 1; 62 L. T. 49; 38 W. R. 345; 6 Asp. M. L. C. 475, C.A.	129
Clarke <i>v.</i> Earnshaw (1818), Gow. 30	108
— <i>v.</i> Stanford (1871), L. R. 6 Q. B. 357; 40 L. J. (M. C.) 151; 24 L. T. 389; 19 W. R. 846	193
Clay <i>v.</i> Wood (1803), 5 Esp. 44	61
Clements <i>v.</i> Tyrone County Council, [1905] 2 I. R. 542, C.A.	161
Cobb <i>v.</i> Great Western Ry. Co., [1894] A. C. 419; 63 L. J. (Q. B.) 629; 71 L. T. 161; 58 J. P. 636; 6 R. 203	128
Cocks <i>v.</i> Mayner (1894), 70 L. T. 403; 58 J. P. 104; 17 Cox, C. C. 745; 10 R. 467	193
Coggs <i>v.</i> Bernard (1703), 2 Ld. Raym. 909; 1 Smith, L. C. 173; 1 Com. 133; 1 Salk. 26; 3 Salk. 11; Holt, (K. B.) 13	122, 123
Colchester Corporation <i>v.</i> Gepp, [1912] 1 K. B. 477; 81 L. J. (K. B.) 356; 106 L. T. 54; 76 J. P. 97, 337; 56 Sol. Jo. 160; 10 L. G. R. 109, 930, on appeal (1913), 77 J. P. 181; 11 L. G. R. 349, C.A.	146, 154, 158, 159, 160
—, Wemyss & Co. <i>v.</i> Gloucestershire County Council (1897), 66 L. J. (Q. B.) 290	153
Cole Brothers <i>v.</i> Harrop (1915), 85 L. J. (K. B.) 494; 113 L. T. 1013; 79 J. P. 519; 31 T. L. R. 599; 13 L. G. R. 1223	45
Connell <i>v.</i> Mitchell, [1913] S. C. (J.) 13; 50 Sc. L. R. 117; 7 Adam. 73	76
Cookson, <i>Ex parte.</i> See <i>R. v. Anwyl and others</i> , Merionethshire J.J., <i>Ex parte</i> Cookson	
Cooper <i>v.</i> Barton (1810), 3 Camp. 5 n.	119, 120

	PAGE
Cooper v. Hawkins, [1904] 2 K. B. 164; 73 L. J. (K. B.) 113; 89 L. T. 476; 68 J. P. 25; 52 W. R. 228; 19 T. L. R. 620; 1 L. G. R. 833	74
Cordey v. Cardiff, etc., Pure Ice Co. (1903), 88 L. T. 192; 19 T. L. R. 256, C.A.	108
Coughlin v. Gillison, [1899] 1 Q. B. 145; 68 L. J. (Q. B.) 147; 79 L. T. 627; 47 W. R. 113, C.A.	122
Coupé Co. v. Maddick, [1891] 2 Q. B. 413; 60 L. J. (Q. B.) 676; 65 L. T. 489; 56 J. P. 39	119
Cousins v. Stockbridge (1866), 30 J. P. 166	234
Cowley v. Newmarket Local Board, [1892] A. C. 345; 62 L. J. (Q. B.) 65; 67 L. T. 486; 56 J. P. 805; 1 R. 45	161
Crofts v. Waterhouse (1825), 3 Bing. 319; 11 Moore, (C. P.) 133; 4 L. J. (O. S.) (C. P.) 75	123
Croydon Rural District Council v. Sutton District Water Co., Ewart, Third Party (1908), 72 J. P. 217; 6 L. G. R. 574, C.A.	158
Cruden v. Fentham (1799), 2 Esp. 685	61
Curtis v. Embury (1872), L. R. 7 Ex. 369; 42 L. J. (M. C.) 39; 21 W. R. 143	194

## D.

DANBY v. Hunter (1879), 5 Q. B. D. 20; 49 L. J. (M. C.) 15; 41 L. T. 622; 44 J. P. 283; 28 W. R. 228	8
Daniel v. Metropolitan Ry. Co. (1868), L. R. 3 C. P. 216; reversed (1871), L. R. 5 H. L. 45; 40 L. J. (C. P.) 121; 24 L. T. 815; 20 W. R. 37	127, 128
Davey v. Bennett (1905), 69 J. P. 200	99
Davies v. Gas Light and Coke Co., [1909] 1 Ch. 708; 78 L. J. (CH.) 445; 100 L. T. 553; 25 T. L. R. 428; 53 Sol. Jo. 399; 16 Mans. 147, C.A.	105
Davis v. Browne (1879), 48 L. J. (M. C.) 92; 40 L. T. 557	90
Davys v. Douglas (1858), 4 H. & N. 180; 28 L. J. (M. C.) 193; 7 W. R. 327	102
Day v. Bather (1863), 2 H. & C. 14; 32 L. J. (EX.) 171; 8 L. T. 205; 9 Jur. (N. S.) 440; 11 W. R. 575	108
Dean v. Keate (1811), 3 Camp. 4	119, 120
Dewar v. Tasker & Sons (1907), 23 T. L. R. 259, C.A.	121
Dewhurst v. Eddles (1893), 57 J. P. 373; 9 T. L. R. 494	224
Dickson v. Great Northern Ry. Co. (1886), 18 Q. B. D. 176; 56 L. J. (Q. B.) 111; 55 L. T. 868; 51 J. P. 388; 35 W. R. 202, C.A.	124
——— v. Stevenson, [1912] S. C. (J.) 1; 49 Sc. L. R. 194; 6 Adam, 541	71
Dobson v. Jennings, [1920] 1 K. B. 243; 89 L. J. (K. B.) 281; 122 L. T. 62; 83 J. P. 259; 17 L. G. R. 769	45
Doggett v. Waterloo Taxi-Cab Co., Ltd., [1910] 2 K. B. 336; 79 L. J. (K. B.) 1085; 102 L. T. 874; 26 T. L. R. 491; 54 Sol. Jo. 541; 3 B. W. C. C. 371, C.A.	121, 185
Dominion Natural Gas Co., Ltd. v. Collins, [1909] A. C. 640; 79 L. J. (P. C.) 13; 101 L. T. 359; 25 T. L. R. 831; 47 Sc. L. R. 583	108

	PAGE
Du Cros <i>v.</i> Lambourne, [1907] 1 K. B. 40; 76 L. J. (K. B.) 50; 95 L. T. 782; 70 J. P. 525; 23 T. L. R. 3; 21 Cox, C. C. 311; 5 L. G. R. 120 . . . . .	64, 71, 80
Dunn <i>v.</i> Holt (1904), 73 L. J. (K. B.) 341; 90 L. T. 577; 68 J. P. 271; 20 T. L. R. 297; 20 Cox, C. C. 625; 2 L. G. R. 502	87
— <i>v.</i> Mitchell, [1911] S. C. (J.) 46 . . . . .	76
Dunning <i>v.</i> Maher (1912), 106 L. T. 846; 76 J. P. 255; 23 Cox, C. C. 1; 10 L. G. R. 466 . . . . .	233

## E.

ECKERSLEY <i>v.</i> Mersey Docks and Harbour Board, [1894] 2 Q. B. 667; 71 L. T. 308; 9 R. 827, C.A. . . . .	106
Egerly's Case (1641), 3 Salk. 183; March, 135; Jenk. 284 . . . .	55
Egham Rural Council <i>v.</i> Gordon, [1902] 2 K. B. 120; 71 L. J. (K. B.) 523; 87 L. T. 31; 66 J. P. 759; 50 W. R. 703; 18 T. L. R. 515 . . . . .	153, 154
Electric Supply Stores <i>v.</i> Gaywood (1909), 100 L. T. 855 . . . .	127
Elieson <i>v.</i> Parker (1917), 117 L. T. 276; 81 J. P. 265; 33 T. L. R. 380; 561 Sol. Jo. 559; 15 L. G. R. 531 . . . . .	17
Ellis & Co. <i>v.</i> Hulse (1889), 23 Q. B. D. 24; 58 L. J. (M. C.) 91; 60 L. T. 836; 53 J. P. 598; 37 W. R. 557 . . . . .	45
Elwes <i>v.</i> Hopkins, [1906] 2 K. B. 1; 75 L. J. (K. B.) 450; 94 L. T. 547; 70 J. P. 262; 21 Cox, C. C. 133; 4 L. G. R. 615 . . . .	78
Epsom Urban District Council <i>v.</i> London County Council, [1900] 2 Q. B. 751; 69 L. J. (Q. B.) 933; 83 L. T. 284; 64 J. P. 727; 49 W. R. 302; 16 T. L. R. 571 . . . . .	146, 153
Etherley Grange Coal Co., Ltd. <i>v.</i> Auckland District Highway Board, [1894] 1 Q. B. 37; 69 L. T. 702; 58 J. P. 102; 42 W. R. 198; 9 R. 88, C.A. . . . .	148, 150, 151
Evans <i>v.</i> Nicholl, [1909] 1 K. B. 778; 78 L. J. (K. B.) 428; 100 L. T. 496; 73 J. P. 154; 25 T. L. R. 239; 22 Cox, C. C. 70; 7 L. G. R. 386 . . . . .	17, 24
Exeter Corporation <i>v.</i> Heaman (1877), 37 L. T. 534; 42 J. P. 503 . . . . .	97

## F.

FEARNLEY <i>v.</i> Ormsby (1879), 4 C. P. D. 136; 27 W. R. 823 . . . .	87
Finegan <i>v.</i> London and North Western Ry. Co. (1889), 53 J. P. 663; 5 T. L. R. 598 . . . . .	61
Foinett <i>v.</i> Clark (1877), 41 J. P. 359 . . . . .	193
Foreman <i>v.</i> Canterbury Corporation (1871), L. R. 6 Q. B. 214; 40 L. J. (Q. B.) 138; 24 L. T. 385; 19 W. R. 719 . . . . .	161, 162
Foss <i>v.</i> Best, [1906] 2 K. B. 105; 75 L. J. (K. B.), 575; 95 L. T. 127; 70 J. P. 383; 22 T. L. R. 542; 21 Cox, C. C. 226 . . . .	103
Foster <i>v.</i> Tucker (1870), L. R. 5 Q. B. 224; 39 L. J. (M. C.) 72; 22 L. T. 124 . . . . .	45
Freeman <i>v.</i> Cooke (1848), 2 Ex. 654; 6 Dow. & L. 187; 18 L. J. (EX.) 114; 12 Jur. 777 . . . . .	132
Freestone <i>v.</i> Caswell (1869), L. R. 4 Q. B. 516 . . . . .	164
Fritz <i>v.</i> Hobson (1880), 14 Ch. D. 542; 49 L. J. (CH.) 735; 42 L. T. 677; 28 W. R. 722 . . . . .	56

## G.

PAGE

GALER <i>v.</i> Rawson, [1889] W. N. 180 ; 6 T. L. R. 17, C.A. . . .	9, 57
Gas Light and Coke Co. <i>v.</i> St. George's, Hanover Square, Vestry (1887), 3 T. L. R. 581 . . . . .	58
— <i>v.</i> St. Mary Abbott's, Kensington, Vestry (1885), 15 Q. B. D. 1 ; 54 L. J. (Q. B.) 414 ; 53 L. T. 457 ; 49 J. P. 469 ; 33 W. R. 892, C.A. . . . .	58
Gates <i>v.</i> Bill (R.) & Son, [1902] 2 K. B. 38 ; 71 L. J. (K. B.) 702 ; 87 L. T. 288 ; 18 T. L. R. 592 ; 50 W. R. 546, C.A. . . . .	185
Geirionydd Rural District Council <i>v.</i> Green, [1909] 2 K. B. 845 ; 78 L. J. (K. B.) 1039 ; 100 L. T. 418 ; 73 J. P. 137 ; 25 T. L. R. 282 ; 7 L. G. R. 308, C.A. . . . .	150, 151
Gerring <i>v.</i> Barfield (1864), 16 C. B. (N. S.) 597 ; 11 L. T. 270 . . . . .	85
Gibbons <i>v.</i> Standon (1867), 16 L. T. 497 . . . . .	186
— <i>v.</i> Vanguard Motor Bus Co. (1908), 72 J. P. 505 ; 25 T. L. R. 13 ; 53 Sol. Jo. 82 ; 7 L. G. R. 349 . . . . .	57, 64
Gill <i>v.</i> Carson, [1917] 2 K. B. 674 ; 86 L. J. (K. B.) 1290 ; 81 J. P. 250 ; 117 L. R. 269 ; 15 T. L. R. 567 . . . . .	84, 86
Gloucester Local Board <i>v.</i> Chandler (1863), 32 L. J. (M. C.) 66 ; 7 L. T. 723 . . . . .	104
Godmanchester Urban Council <i>v.</i> Hooley (1901), <i>Times</i> , Aug. 5 . . . . .	157
Golding <i>v.</i> Stocking (1869), L. R. 4 Q. B. 516 ; 10 B. & S. 348 ; 38 L. J. (M. C.) 122 ; 20 L. T. 479 ; 17 W. R. 722 . . . . .	164
Gordon <i>v.</i> Cann (1899), 68 L. J. (Q. B.) 434 ; 80 L. T. 20 ; 63 J. P. 324 ; 47 W. R. 269 ; 15 T. L. R. 165 . . . . .	68
Gorham <i>v.</i> Brice (1902), 18 T. L. R. 424 . . . . .	69
Gouger <i>v.</i> Jolly (1816), Holt, 317 . . . . .	124
Green <i>v.</i> All Motors, Ltd., [1917] 1 K. B. 625 ; 86 L. J. (K. B.) 590 ; 116 L. T. 189, C.A. . . . .	110
Gregg <i>v.</i> Wells (1839), 10 Ad. & El. 90 ; 2 Per. & Dav. 296 ; 8 L. J. (Q. B.) 193 . . . . .	132
Grose <i>v.</i> West and others (1816), 7 Taunt. 38 . . . . .	164
Gunter <i>v.</i> James (1908), 72 J. P. 448 ; 24 T. L. R. 868 ; 6 L. G. R. 1138 . . . . .	10, 56, 57
Gwilliam <i>v.</i> Twist, [1895] 2 Q. B. 84 ; 64 L. J. (Q. B.) 474 ; 72 L. T. 579 ; 59 J. P. 484 ; 43 W. R. 566 ; 14 R. 461, C.A. . . . .	185

## H.

HACKNEY Furnishing Co. <i>v.</i> Watts, [1912] 3 K. B. 225 ; 81 L. J. (K. B.) 993 ; 106 L. T. 676 ; 28 T. L. R. 417 . . . . .	133
Hammack <i>v.</i> White (1862), 11 C. B. (N. S.) 588 ; 31 L. J. (C. P.) 129 ; 5 L. T. 676 ; 8 Jur. (N. S.) 796 ; 10 W. R. 230 . . . . .	65
Hanks <i>v.</i> Bridgman, [1896] 1 Q. B. 253 ; 65 L. J. (M. C.) 41 ; 74 L. T. 26 ; 60 J. P. 312 ; 44 W. R. 285 ; 18 Cox, C. C. 224 . . . . .	130
Hargreaves <i>v.</i> Baldwin (1905), 93 L. T. 311 ; 69 J. P. 397 ; 21 T. L. R. 715 ; 21 Cox, C. C. 33 ; 3 L. G. R. 973 . . . . .	79
Harris <i>v.</i> Perry & Co., [1903] 2 K. B. 219 ; 72 L. J. (K. B.) 725 ; 89 L. T. 174 ; 19 T. L. R. 537, C.A. . . . .	64
Hartley <i>v.</i> Chadwick (1904), 68 J. P. 512 . . . . .	61, 84, 85

	PAGE
Hatton v. Car Maintenance Co., Ltd., [1915] 1 Ch. 621; 84 L. J. (CH.) 847; 110 L. T. 765; 30 T. L. R. 275; 58 Sol. Jo. 361	109, 111
Hawkins v. Edwards, [1901] 2 K. B. 169; 70 L. J. (K. B.) 597; 84 L. T. 532; 65 J. P. 423; 49 W. R. 487; 17 T. L. R. 430; 19 Cox, C. C. 692	194
Heath v. Brewer (1864), 15 C. B. (N. S.) 803; 9 L. T. 653	177, 180
Helby v. Matthews, [1895] A. C. 471; 64 L. J. (Q. B.) 465; 72 L. T. 481; 60 J. P. 20; 43 W. R. 561; 11 R. 232	131
Helsby v. Wintle (1895), 59 J. P. 309	49
Hemsworth Rural District Council v. Micklethwaite (1904), 68 J. P. 345; 2 L. G. R. 1084	58, 135, 148, 149, 151, 152, 160
Henderson v. Stevenson (1875), L. R. 2 Sc. & Div. 470; 32 L. T. 709	125
Hertfordshire County Council v. Great Eastern Ry. Co., [1909] 2 K. B. 403; 78 L. J. (K. B.) 1076; 101 L. T. 213; 73 J. P. 353; 25 T. L. R. 573; 53 Sol. Jo. 575; 7 L. G. R. 1006, C.A.	137
Heywood v. Whitehead (1897), 76 L. T. 781; 13 T. L. R. 503; 18 Cox, C. C. 615	104
High Wycombe Rural District Council v. Palmer (1905), 69 J. P. 167	151
Hill v. Thomas, [1893] 2 Q. B. 333; 62 L. J. (M. C.) 161; 69 L. T. 553; 57 J. P. 628; 42 W. R. 85; 4 R. 565, C.A.	147
— v. Tottenham Urban District Council (1898), 79 L. T. 495; 15 T. L. R. 3	149, 150, 151
Hinde v. Evans (1906), 96 L. T. 20; 70 J. P. 548; 21 Cox, C. C. 331; 4 L. G. R. 1152	161
Hobbs v. Tonbridge Rural Council (1885), 49 J. P. p. 679	85
Hoddell v. Parker, [1910] 2 K. B. 323; 79 L. J. (K. B.) 759; 103 L. T. 42; 74 J. P. 315; 8 L. G. R. 690	153
Holland v. Peacock, [1912] 1 K. B. 154; 81 L. J. (K. B.) 256; 105 L. T. 957; 76 J. P. 68; 22 Cox, C. C. 636; 10 L. G. R. 123	45
Hollands v. Williamson, [1920] 1 K. B. 716; 89 L. J. (K. B.) 298; 122 L. T. 91; 83 J. P. 289	104
Holloway, <i>Ex parte</i> . See R. v. Metropolitan Police Commissioner, <i>Ex parte</i> Holloway.	17
Holloway v. Birmingham Corporation (1905), 69 J. P. 358; 3 L. G. R. 878	
Horan v. Hayhoe, [1904] 1 K. B. 288; 73 L. J. (Q. B.) 133; 90 L. T. 12; 68 J. P. 102; 52 W. R. 231; 20 T. L. R. 118	162
Hughes v. Nimmo, [1910] S. C. (J.) 45; 47 Sc. L. R. 381; 6 Adam, 217	49
Hurrell v. Ellis (1845), 2 C. B. 295; 15 L. J. (C. P.) 18; 9 Jur. 1013	70
Hutchins v. Maunder (1920), 37 T. L. R. 72	177, 180
Hutchinson v. York, Newcastle, & Berwick Ry. Co. (1850), 5 Exch. 343; 19 L. J. (EX.) 296; 6 Ry. & Can. Cas. 580; 14 Jur. 837	57, 122
Hyman v. Nye (1881), 6 Q. B. D. 685; 44 L. T. 919; 45 J. P. 554	65
	120

## I.

INGATE v. Christie (1850), 3 Car. & K. 61	123
Irwin v. Waterloo Taxi Cab Co., Ltd., [1912] 3 K. B. 588; 81 L. J. (K. B.) 967; 107 L. T. 288; 28 T. L. R. 567; 56 Sol. Jo. 720, C.A.	63, 184

## J.

	PAGE
JACKSON <i>v.</i> Normanby Brick Co., [1899] 1 Ch. 438; 68 L. J. (CH.) 407; 80 L. T. 482, C.A.	140
Jay's Furnishing Co. <i>v.</i> Brand & Co., [1914] 2 K. B. 132; 83 L. J. (K. B.) 505; 110 L. T. 108; 30 T. L. R. 244, affirmed, [1915] 1 K. B. 458; 84 L. J. (K. B.) 867; 112 L. T. 719; 31 T. L. R. 124; 59 Sol. Jo. 160, C.A.	133
Jefferson <i>v.</i> Derbyshire Farmers, Ltd., [1921] 2 K. B. 281; 90 L. J. (K. B.) 1361; 124 L. T. 775, C.A.	108
Jeffery <i>v.</i> St. Pancras, etc. (1894), 63 L. J. (Q. B.) 618; 10 R. 554	55, 56, 57
Jenney <i>v.</i> Brook (1841), 2 Q. B. 265; (1844), 6 Q. B. 323; 1 New Sess. Cas. 323; 13 L. J. (Q. B.) 376; 8 Jur. 782	163
Jesse <i>v.</i> Hales (1889), 23 Q. B. D. 24; 58 L. J. (M. C.) 91; 60 L. T. 836; 53 J. P. 598; 37 W. R. 557	45
Jessop <i>v.</i> Clarke (1908), 99 L. T. 28; 72 J. P. 358; 24 T. L. R. 672; 6 L. G. R. 686	70
Jones <i>v.</i> Boyce (1816), 1 Stark. 493	129
—— <i>v.</i> Festiniog Ry. Co. (1868), L. R. 3 Q. B. 733; 9 B. & S. 835; 37 L. J. (Q. B.) 214; 18 L. T. 902; 17 W. R. 28	56, 58
—— <i>v.</i> Liverpool Corporation (1840), 14 Q. B. D. 890; 54 L. J. (Q. B.) 345; 49 J. P. 311; 33 W. R. 551	121
—— <i>v.</i> Short (1900), 69 L. J. (Q. B.) 473; 82 L. T. 197; 64 J. P. 247; 48 W. R. 251	194, 228
—— <i>v.</i> Tyler (1834), 1 Ad. & El. 522; 3 Nev. & M. (K. B.) 576; 3 L. J. (K. B.) 166	108
Judson <i>v.</i> Etheridge (1833), 1 Cr. & M. 743; 3 Tyr. 954; 2 L. J. (EX.) 300	109

## K.

KEEN <i>v.</i> Henry, [1894] 1 Q. B. 292; 63 L. J. (Q. B.) 211; 69 L. T. 671; 58 J. P. 262; 42 W. R. 214; 9 R. 102, C.A.	185
—— <i>v.</i> Millwall Dock Co. (1882), 8 Q. B. D. 482; 51 L. J. (Q. B.) 277; 46 L. T. 472; 46 J. P. 435; 30 W. R. 503, C.A.	70
Keene <i>v.</i> Thomas, [1905] 1 K. B. 136; 74 L. J. (K. B.) 21; 92 L. T. 19; 53 W. R. 336; 21 T. L. R. 2	110
Kemp <i>v.</i> Elisha, [1918] 1 K. B. 228; 87 L. J. (K. B.) 428; 118 L. T. 246; 82 J. P. 81; 62 Sol. Jo. 174, C.A.	185
—— <i>v.</i> Lubbock, [1920] 1 K. B. 253; 89 L. J. (K. B.) 239; 122 L. T. 220; 83 J. P. 270; 36 T. L. R. 21	204
Kendall <i>v.</i> London & South Western Ry. Co. (1872), L. R. 7 Ex. 373; 41 L. J. (EX.) 184; 26 L. T. 735; 20 W. R. 886	123
Kent County Council <i>v.</i> Folkestone Corporation, [1905] 1 K. B. 620; 74 L. J. (K. B.) 352; 92 L. T. 309; 69 J. P. 125; 53 W. R. 371; 21 T. L. R. 269; 3 L. G. R. 483, C.A.	153, 155, 156
—— <i>v.</i> Gerard (Lord), [1897] A. C. 633; 66 L. J. (Q. B.) 677; 77 L. T. 109; 61 J. P. 804; 46 W. R. 111	153
—— <i>v.</i> Kent Coal Concessions (1908), 72 J. P. 507; affirmed (1909), 73 J. P. 305; 25 T. L. R. 479; 7 L. G. R. 899, C.A.	153, 158

	PAGE
Kent County Council <i>v.</i> Vidler, [1895] 1 Q. B. 448; 64 L. J. (M. C.) 77; 72 L. T. 77; 59 J. P. 548; 43 W. R. 273; 14 R. 240, C.A. . . . .	147, 153
Kerry County Council <i>v.</i> Fletcher (1916), 50 I. L. T. 86 . . . . .	150, 160
Kidner <i>v.</i> Daniels (1910), 102 L. T. 132; 74 J. P. 127; 22 Cox, C. C. 276; 8 L. G. R. 159 . . . . .	22
King <i>v.</i> London Improved Cab Co., Ltd. (1889), 23 Q. B. D. 281; 58 L. J. (Q. B.) 456; 61 L. T. 34; 53 J. P. 788; 37 W. R. 737, C.A. . . . .	185
Kippins, <i>Ex parte</i> , [1897] 1 Q. B. 1; 66 L. J. (Q. B.) 95; 75 L. T. 421; 60 J. P. 791; 45 W. R. 188; 18 Cox, C. C. 459 . . . . .	202, 228
Kruse <i>v.</i> Johnson, [1898] 2 Q. B. 91; 67 L. J. (Q. B.) 782; 78 L. T. 647; 62 J. P. 469; 46 W. R. 631; 14 T. L. R. 416 . . . . .	232

## L.

LANCASTER <i>v.</i> Harlech Highway Board (1888), 52 J. P. 805 . . . . .	146
Lancaster Rural Council <i>v.</i> Fisher and Le Fanu, [1907] 2 K. B. 516; 76 L. J. (K. B.) 1070; 97 L. T. 560; 71 J. P. 401; 23 T. L. R. 614; 5 L. G. R. 1223, C.A. . . . .	155, 156
Laugher <i>v.</i> Pointer (1826), 5 B. & C. 547; 8 Dow. & Ry. (K. B.) 556; 4 L. J. (O. S.) (K. B.) 309 . . . . .	121
Lawrence <i>v.</i> King (1868), L. R. 3 Q. B. 345; 9 B. & S. 325; 37 L. J. (M. C.) 78; 18 L. T. 356; 16 W. R. 966 . . . . .	163
Ledbury Rural District Council <i>v.</i> Somerset, [1914] W. N. 222; 84 L. J. (K. B.) 1297; 113 L. T. 71; 78 J. P. 433; 30 T. L. R. 534; 12 L. G. R. 850; affirmed, [1915] W. N. 131; 84 L. J. (K. B.) 1302; 113 L. T. 74; 79 J. P. 327; 31 T. L. R. 295; 59 Sol. Jo. 476; 13 L. G. R. 701, C.A. . . . .	152
Lee <i>v.</i> Butler, [1893] 2 Q. B. 318; 62 L. J. (Q. B.) 591; 69 L. T. 370; 42 W. R. 88 . . . . .	131
Lewis <i>v.</i> Clay (1898), 67 L. J. (Q. B.) 224; 77 L. T. 653; 46 W. R. 319; 14 T. L. R. 149 . . . . .	132
—— <i>v.</i> Thomas, [1919] 1 K. B. 319; 88 L. J. (K. B.) 275; 118 L. T. 689; [1918–19] B. & C. R. 65 . . . . .	131
—— <i>v.</i> Weston-super-Mare Local Board (1888), 40 Ch. D. 55; 58 L. J. (CH.) 39; 59 L. T. 769; 37 W. R. 121 . . . . .	146
Lister <i>v.</i> Lancashire & Yorkshire Ry. Co., [1903] 1 K. B. 878; 72 L. J. (K. B.) 385; 88 L. T. 561; 52 W. R. 12 . . . . .	124
Little Hulton Urban District Council <i>v.</i> Jackson (1904), 68 J. P. 451; 2 L. G. R. 986 . . . . .	147
Lloyd <i>v.</i> Grace, Smith & Co., [1912] A. C. 716; 81 L. J. (K. B.) 1140; 107 L. T. 531; 28 T. L. R. 547; 56 Sol. Jo. 723 . . . . .	126
Lodge Holes Colliery Co. <i>v.</i> Wednesbury Corporation, [1908] A. C. 323; 77 L. J. (K. B.) 847; 99 L. T. 210; 72 J. P. 417; 24 T. L. R. 771; 52 Sol. Jo. 620; 6 L. G. R. 924 . . . . .	136
London County Council <i>v.</i> Fairbank, [1911] 2 K. B. 32; 80 L. J. (K. B.) 1032; 105 L. T. 46; 75 J. P. 356; 9 L. G. R. 540 . . . . .	174
—— <i>v.</i> Holzapfels Compositions Co. (1899), 68 L. J. (Q. B.) 886; 63 J. P. 615; 47 W. R. 622; 15 T. L. R. 417 . . . . .	112

## TABLE OF CASES

xxxiii

	PAGE
London County Council <i>v.</i> Lee, [1914] 3 K. B. 255; 83 L. J. (K. B.) 1373; 111 L. T. 569; 78 J. P. 396; 30 T. L. R. 525; 24 Cox, C. C. 388; 12 L. G. R. 733	45
Londonderry County Council <i>v.</i> MacCarthy, [1917] 2 I. R. 49	148

## M.

MACANDREW <i>v.</i> Tillard, [1909] S. C. (Ct. of Sess.) 78; 46 Sc. L. R. 111	62
Macfarlane <i>v.</i> Colam, [1908] S. C. (Ct. of Sess.) 56; 45 Sc. L. R. 47	84
MacKee <i>v.</i> McGrath (1892), 30 L. R. Ir. 41	84, 87
Mackenzie <i>v.</i> Somerville (1900), 3 F. (J.) 4; 37 Sc. L. R. 926; 8 Sc. L. T. 149; 3 Adam, 203	233
M'Laughlin <i>v.</i> Pryor (1842), Car. & M. 354; 4 Man. & G. 48; 4 Scott, (N. R.) 655; 11 L. J. (C. P.) 169	121
McMahon <i>v.</i> Field (1881), 7 Q. B. D. 591; 50 L. J. (Q. B.) 552; 45 L. T. 381; 46 J. P. 245, C.A.	109
McVittie, <i>Ex parte</i> . See R. <i>v.</i> Rhodes, <i>Ex parte</i> McVittie.	
Marks <i>v.</i> Ford (1880), 45 J. P. 157	194
Marnier <i>v.</i> Banks (1867), 17 L. T. 147; 16 W. R. 62	132
Marriott <i>v.</i> Yeoward Brothers, [1909] 2 K. B. 987; 79 L. J. (K. B.) 114; 101 L. T. 394; 25 T. L. R. 755; 53 Sol. Jo. 790; 11 Asp. M. L. C. 306; 14 Com. Cas. 279	125, 126
Marshall <i>v.</i> Ford (1908), 99 L. T. 796; 72 J. P. 480; 21 Cox, C. C. 731; 6 L. G. R. 1126	73, 80
Martin <i>v.</i> Brooman (1909), 73 J. P. 484; 25 T. L. R. 783	71
——— <i>v.</i> Pridgeon (1859), 1 E. & E. 778; 28 L. J. (M. C.) 179; 5 Jur. (N. S.) 894; 7 W. R. 412; 8 Cox, C. C. 170	97
——— <i>v.</i> White, [1910] 1 K. B. 665; 79 L. J. (K. B.) 553; 102 L. T. 23; 74 J. P. 106; 26 T. L. R. 218; 22 Cox, C. C. 236; 8 L. G. R. 218	73
Mathews <i>v.</i> London Street Tramways Co. (1888), 58 L. J. (Q. B.) 12; 60 L. T. 47; 52 J. P. 774	129
May <i>v.</i> Beeley, [1910] 2 K. B. 722; 79 L. J. (K. B.) 852; 102 L. T. 326; 74 J. P. 111; 22 Cox, C. C. 306; 8 L. G. R. 166	98
Mayer <i>v.</i> Harding (1867), L. R. 2 Q. B. 410; 9 B. & S. 27 n.; 16 L. T. 429; 15 W. R. 816	104
Mayhew <i>v.</i> Boyce (1816), 1 Stark. 423	62
——— <i>v.</i> Sutton (1901), 71 L. J. (K. B.) 46; 86 L. T. 18; 50 W. R. 216; 18 T. L. R. 52; 20 Cox, C. C. 146	78
Mayo County Council <i>v.</i> M'Anish (1913), 47 I. L. T. 120	150, 160
Mills <i>v.</i> Armstrong, The Bernina (1888), 13 App. Cas. 1; 57 L. J. (P.) 65; 58 L. T. 423; 52 J. P. 212; 36 W. R. 870; 6 Asp. M. L. C. 257	129
Milne <i>v.</i> MacLennan (1902), 4 F. (J.) 79	13
Milne & Co. <i>v.</i> Aberdeen District Committee (1899), 2 F. (Ct. of Sess.) 220; 37 Sc. L. R. 171; 7 Sc. L. T. 259	146
Mitcham, <i>Ex parte</i> (1864), 5 B. & S. 585; 33 L. J. (Q. B.) 325; 10 L. T. 573; 10 Jur. (N. S.) 1254; 12 W. R. 983	182
Moorman <i>v.</i> Tordoff (1908), 98 L. T. 416; 72 J. P. 142; 6 L. G. R. 360	232
Morley <i>v.</i> Dunscombe (1848), 11 L. T. (O. S.) 199	185

	PAGE
Morpeth Rural Council <i>v.</i> Bullocks Hall Colliery Co., Ltd., [1913] 2 K. B. 7; 82 L. J. (K. B.) 547; 108 L. T. 479; 77 J. P. 188; 29 T. L. R. 297; 57 Sol. Jo. 373; 11 L. G. R. 475, C.A. . . . .	158
Muir <i>v.</i> Hore (1877), 47 L. J. (M. C.) 17; 37 L. T. 315; 41 J. P. 471	104
Mulliner <i>v.</i> Florence (1878), 3 Q. B. D. 484; 47 L. J. (Q. B.) 700; 38 L. T. 167; 26 W. R. 385, C.A. . . . .	108
Murch <i>v.</i> Baker (1891), 55 J. P. 583 . . . . .	45
Musgrove <i>v.</i> Pandeliş, [1919] 2 K. B. 43; 88 L. J. (K. B.) 915; 120 L. T. 601; 35 T. L. R. 299; 63 Sol. Jo. 353, C.A. . . . .	108
Musther <i>v.</i> Musther (1894), 58 J. P. 53 . . . . .	103

## N.

NORFOLK County Council <i>v.</i> Green (1904), 90 L. T. 451; 68 J. P. 223; 2 L. G. R. 652 . . . . .	149, 151, 155
Norris <i>v.</i> Birch, [1895] 1 Q. B. 639; 64 L. J. (M. C.) 91; 72 L. T. 491; 43 W. R. 271; 18 Cox, C. C. 123; 15 R. 222 . . . . .	177, 180
Northumberland Whinstone Co. <i>v.</i> Alnwick Highway Board (1880), 44 J. P. 360 . . . . .	153
Novis, <i>Ex parte</i> , [1905] 2 K. B. 456; 74 L. J. (K. B.) 633; 93 L. T. 534; 69 J. P. 288; 21 T. L. R. 517; 3 L. G. R. 753 . . . . .	99
Nuttall <i>v.</i> Pickering, [1913] 1 K. B. 14; 82 L. J. (K. B.) 36; 107 L. T. 852; 77 J. P. 30; 23 Cox, C. C. 263 . . . . .	62, 85

## O.

ONLEY <i>v.</i> Gee (1861), 30 L. J. (M. C.) 222; 4 L. T. 338; 7 Jur. (N. S.) 570; 9 W. R. 662 . . . . .	95
Original Hartlepool Collieries Co. <i>v.</i> Gibb (1877), 5 Ch. D. 713; 46 L. J. (CH.) 311; 36 L. T. 433 . . . . .	56
Osborne <i>v.</i> London & North Western Ry. Co. (1888), 21 Q. B. D. 220; 57 L. J. (Q. B.) 618; 59 L. T. 227; 52 J. P. 806; 36 W. R. 809 . . . . .	128

## P.

PARKER <i>v.</i> Bournemouth Corporation (1902), 86 L. T. 449; 66 J. P. 440; 18 T. L. R. 372 . . . . .	232
——— <i>v.</i> London General Omnibus Co., Ltd. (1909), 100 L. T. 409; 73 J. P. 283; 25 T. L. R. 429; affirmed (1910), 101 L. T. 623; 74 J. P. 20; 26 T. L. R. 18; 53 Sol. Jo. 867; 7 L. G. R. 1111, C.A. . . . .	57
Parkes <i>v.</i> Cole, [1922] W. N. 123; 127 L. T. 152; 86 J. P. 122; 20 L. G. R. 463 . . . . .	70
Payne <i>v.</i> Wilson, [1895] 1 Q. B. 653; 64 L. J. (Q. B.) 328; 72 L. T. 110; 43 W. R. 250; 11 T. L. R. 179; reversed, [1895] 2 Q. B. 537; 65 L. J. (Q. B.) 150; 73 L. T. 12; 43 W. R. 657, C.A. . . . .	131, 132
Peacock <i>v.</i> R. (1858), 4 C. B. (N. S.) 264; 27 L. J. (C. P.) 224; 6 W. R. 517 . . . . .	101, 102
Pearce, <i>Ex parte</i> . See <i>R. v. Metropolitan Police Commissioner</i> , <i>Ex parte</i> Pearce.	
Pennell <i>v.</i> Uxbridge Churchwardens (1862), 31 L. J. (M. C.) 92; 5 L. T. 685; 8 Jur. (N. S.) 99; 10 W. R. 319 . . . . .	104

## TABLE OF CASES

xxxv

	PAGE
Pennington v. Reliance Motor Works, Ltd. (1922), 38 T. L. R. 670 ; 66 Sol. Jo. 667 . . . . .	110
Perkins v. Stead (1907), 23 T. L. R. 433 . . . . .	121
Perth County Council Highland Committee v. Rattray, [1913] S. C. 794 . . . . .	146
Pethick Brothers v. Dorset County Council (1898), 62 J. P. 579 ; 14 T. L. R. 548, C.A. . . . .	153
Phelon and Moore, Ltd. v. Keel, [1914] 3 K. B. 165 ; 83 L. J. (K. B.) 1516 ; 111 L. T. 214 ; 78 J. P. 247 ; 24 Cox, C. C. 234 ; 12 L. G. R. 950 . . . . .	34
Phillips v. Britannia Hygienic Laundry Co., Ltd., [1923] W. N. 47 . . . . .	8, 65
Phythian v. Baxendale, [1895] 1 Q. B. 768 ; 64 L. J. (M. C.) 174 ; 72 L. T. 465 ; 59 J. P. 217 ; 43 W. R. 412 ; 18 Cox, C. C. 119 ; 15 R. 324 . . . . .	84
Pickford v. Grand Junction Ry. Co. (1841), 9 Dowl. 766 ; 8 M. & W. 372 ; 2 Ry. & Can. Cas. 592 ; 5 Jur. 731 . . . . .	123
Pinnock v. Harrison (1838), 3 M. & W. 532 ; 1 Horn. & H. 114 ; 7 L. J. (EX.) 137 . . . . .	111
Pitt-Rivers v. Glasse (1891), 55 J. P. 663 . . . . .	9
Placq v. Marks (1906), 94 L. T. 577 ; 70 J. P. 216 ; 22 T. L. R. 432 ; 21 Cox, C. C. 157 ; 4 L. G. R. 503 . . . . .	69
Playle v. Kew (1886), 2 T. L. R. 849 . . . . .	185
Pluckwell v. Wilson (1832), 5 C. & P. 375 . . . . .	61
Plumbly v. Lock (1903), 67 J. P. 237 ; 19 T. L. R. 14 ; 1 L. G. R. 54 . . . . .	164
Police v. Canese (1908), M. U. D. p. 47 . . . . .	80
—— v. Chambers (1908), M. U. D. p. 14 . . . . .	33
—— v. Danby (1908), M. U. D. pp. 13, 14 . . . . .	33
—— v. Marsten (1908), M. U. D. p. 14 . . . . .	33
—— v. Ridge (1908), M. U. D. p. 13 . . . . .	33
Pounder v. North-Eastern Ry. Co., [1892] 1 Q. B. 385 ; 61 L. J. (Q. B.) 136 ; 65 L. T. 679 ; 56 J. P. 247 ; 40 W. R. 189 . . . . .	128
Powell v. Fall (1880), 5 Q. B. D. 597 ; 49 L. J. (Q. B.) 428 ; 43 L. T. 562, C.A. . . . .	10, 56, 57, 58
Powles v. Hider (1856), 6 E. & B. 207 ; 25 L. J. (Q. B.) 331 ; 2 Jur. (N. S.) 472 ; 4 W. R. 492 . . . . .	185
Price & Co. v. Union Lighterage Co., [1904] 1 K. B. 412 ; 73 L. J. (K. B.) 222 ; 89 L. T. 731 ; 52 W. R. 325 ; 20 T. L. R. 177 ; 9 Com. Cas. 120 . . . . .	125
Printz v. Sewell, [1912] 2 K. B. 511 ; 81 L. J. (K. B.) 905 ; 106 L. T. 880 ; 76 J. P. 295 ; 28 T. L. R. 396 ; 23 Cox, C. C. 23 ; 10 L. G. R. 665 . . . . .	67
Provincial Motor Cab Co. v. Dunning, [1909] 2 K. B. 599 ; 78 L. J. (K. B.) 822 ; 101 L. T. 231 ; 73 J. P. 387 ; 25 T. L. R. 646 ; 7 L. G. R. 765 . . . . .	67
Public Works Commissioners in Ireland v. Monaghan and another, [1909] 2 I. R. 718 . . . . .	232

## Q.

QUARMAN v. Burnett (1840), 6 M. & W. 499 ; 9 L. J. (EX.) 308 ; 4 Jur. 969 . . . . .	121
--	-----

	R.	PAGE
R. v. Anglesey JJ., [1892] 2 Q. B. 29; 61 L. J. (M. C.) 143; 67 L. T. 322; 56 J. P. 552; 17 Cox, C. C. 563		101
— v. Anwyl and others, Merionethshire JJ., <i>Ex parte</i> Cookson (1909), 73 J. P. 485		96
— v. Barry District Council, <i>Ex parte</i> Jones (1900), 16 T. L. R. 565		220, 225
— v. Bell, <i>Ex parte</i> Flinn & Sons (1899), 15 T. L. R. 487		103
— v. Bermondsey Borough Council, <i>Ex parte</i> Bermondsey Guardians (1908), 99 L. T. 14; 72 J. P. 330; 6 L. G. R. 852		105
— v. Blackpool Corporation (1899), <i>Times</i> , Dec. 7		220
— v. Boulbee (1836), 4 Ad. & El. 498; 6 Nev. & M. (K. B.) 26; 1 Har. & W. 713		101
— v. Brighton Corporation, <i>Ex parte</i> Schoesmith (1907), 96 L. T. 762; 71 J. P. 265; 23 T. L. R. 440; 5 L. G. R. 554		136
— v. ———— <i>Ex parte</i> Tilling (Thomas), Ltd. (1916), 85 L. J. (K. B.) 1552; 114 L. T. 800; 80 J. P. 219; 32 T. L. R. 239; 14 L. G. R. 776		220, 225
— v. Chancellor and others (1905), 69 J. P. 383; 3 L. G. R. 1012		82
— v. Cheshire JJ. (1896), 60 J. P. 585		101
— v. Claxby (Inhabitants) (1855), 24 L. J. (Q. B.) 223; 1 Jur. (N. S.) 710; 3 W. R. 451; 3 C. L. R. 986		135
— v. Cross (1812), 3 Camp. 224		56
— v. Devon (1825), 4 B. & C. 670; 7 Dow. & Ry. (K. B.) 147; 4 L. J. (O. S.) (K. B.) 34		143
— v. Dublin JJ., [1904] 2 I. R. 698		78
— v. Durham JJ. (1891), 55 J. P. 277		100
— v. ———— [1895] 1 Q. B. 801; 64 L. J. (M. C.) 147; 72 L. T. 465; 59 J. P. 264; 43 W. R. 423; 15 R. 319		101
— v. Edge (1908), M. U. D., p. 57		69
— v. Ellis (1882), 8 Q. B. D. 466; 46 J. P. 295; 30 W. R. 613		150
— v. Essex JJ., [1892] 1 Q. B. 490; 61 L. J. (M. C.) 120; 66 L. T. 676; 56 J. P. 375; 40 W. R. 446; 17 Cox, C. C. 521		100
— v. Farmer, [1892] 1 Q. B. 637; 61 L. J. (M. C.) 65; 65 L. T. 736; 56 J. P. 341; 40 W. R. 228; 17 Cox, C. C. 413, C.A.		96
— v. Farnborough Urban Council, <i>Ex parte</i> Aldershot District Traction Co., [1920] 1 K. B. 234; 89 L. J. (K. B.) 284; 122 L. T. 283; 83 J. P. 290; 36 T. L. R. 22; 17 L. G. R. 728		220, 225
— v. Farrer (1866), L. R. 1 Q. B. 558; 35 L. J. (M. C.) 210; 14 L. T. 515; 14 W. R. 777; 10 Cox, C. C. 261		140
— v. Ferguson (1890), 54 J. P. 101		106
— v. Fermanagh JJ. (1883), 14 L. R. Ir. 50		86
— v. Fletcher, <i>Ex parte</i> Ansonia (1908), 98 L. T. 749; 72 J. P. 249; 21 Cox, C. C. 578; 6 L. G. R. 583		224
— v. Freke (1856), 5 E. & B. 944; 25 L. J. (M. C.) 64; 2 Jur. (N. S.) 162; 7 W. R. 264; 7 Cox, C. C. 32		45
— v. Gill (1909), 100 L. T. 858; 73 J. P. 290; 7 L. G. R. 589		99

## TABLE OF CASES

xxxvii

	PAGE
R. v. Hankey, [1905] 2 K. B. 687; 74 L. J. (K. B.) 922; 93 L. T. 107; 68 J. P. 219; 54 W. R. 80; 21 T. L. R. 409; 20 Cox, C. C. 1; 3 L. G. R. 554 . . . . .	82
— v. High Halden (1859), 1 F. & F. 678 . . . . .	58, 135, 149
— v. James (Judge) and Midland Ry., <i>Ex parte</i> Bath Rural Council, [1908] 1 K. B. 958; 77 L. J. (K. B.) 402; 98 L. T. 505; 72 J. P. 67; 6 L. G. R. 160 . . . . .	157
— v. Jones (1812), 3 Camp. 230 . . . . .	56
— v. ——— <i>Ex parte</i> Thomas, [1921] 1 K. B. 632; 90 L. J. (K. B.) 543; 124 L. T. 668; 85 J. P. 112; 37 T. L. R. 299; 26 Cox, C. C. 706; 19 L. G. R. 354. . . . .	76
— v. Kerswill, [1895] 1 Q. B. 1; 64 L. J. (M. C.) 70; 71 L. T. 574; 59 J. P. 342; 43 W. R. 59; 18 Cox, C. C. 49; 10 R. 476 . . . . .	229
— v. Kitchener (1873), L. R. 2 C. C. R. 88; 43 L. J. (M. C.) 9; 29 L. T. 697; 22 W. R. 134; 12 Cox, C. C. 522 . . . . .	168
— v. Lancaster County (Inhabitants) (1868), 32 J. P. 711 . . . . .	142
— v. Lilley, <i>Ex parte</i> Taylor (1911), 104 L. T. 77; 75 J. P. 95 . . . . .	96
— v. Lisnaskea Union, [1918] 2 I. R. 258 . . . . .	220
— v. Littlechild (1871), L. R. 6 Q. B. 293; 40 L. J. (M. C.) 137; 24 L. T. 233; 19 W. R. 748 . . . . .	95
— v. London JJ. (1908), 98 L. T. 519; 72 J. P. 137; 24 T. L. R. 274; 52 Sol. Jo. 238; 6 L. G. R. 324, C.A. . . . .	106
— v. Lyndon (1908), 72 J. P. 227; 6 L. G. R. 890 . . . . .	21, 86
— v. Marsham, [1907] 2 K. B. 638; 76 L. J. (K. B.) 1036; 97 L. T. 396; 71 J. P. 445; 23 T. L. R. 629; 21 Cox, C. C. 510; 5 L. G. R. 998 . . . . .	21, 73
— v. Messer (1911), 107 L. T. 31; 76 J. P. 124; 28 T. L. R. 69 . . . . .	154
— v. Metropolitan Police Commissioner, <i>Ex parte</i> Holloway, [1911] 2 K. B. 1131; 105 L. T. 532; 75 J. P. 490; 27 T. L. R. 573; 55 Sol. Jo. 773, C.A. . . . .	196
— v. ——— <i>Ex parte</i> Pearce (1910), 80 L. J. (K. B.) 223; 104 L. T. 135; 75 J. P. 85 . . . . .	196
— v. ——— <i>Ex parte</i> Randell (1911), 75 J. P. 486; 27 T. L. R. 505; 55 Sol. Jo. 726 . . . . .	196
— v. Middlesex JJ. (1845), 2 New Sess. Cas. 73 . . . . .	99
— v. ——— (1888), 32 Sol. Jo. 221 . . . . .	100
— v. Montgomery, <i>Ex parte</i> Long (1910), 102 L. T. 325; 74 J. P. 110; 26 T. L. R. 225; 22 Cox, C. C. 304; 8 L. G. R. 234 . . . . .	74, 98
— v. Montgomery JJ. (1845), 3 Dow. & L. 119; 2 New Sess. Cas. 78; 14 L. J. (M. C.) 142; 9 Jur. 927 . . . . .	101
— v. Morse, [1904] W. N. 114 . . . . .	138
— v. Pain (1826), 5 B. & C. 251; 7 Dow. & Ry. (K. B.) 678 . . . . .	98
— v. Parker (1895), 59 J. P. 793 . . . . .	77
— v. Pawlett (1873), L. R. 8 Q. B. 491; 42 L. J. (M. C.) 157; 29 L. T. 390; 39 J. P. 775 . . . . .	101
— v. Plowden, [1909] 2 K. B. 269; 78 L. J. (K. B.) 733; 100 L. T. 856; 73 J. P. 266; 25 T. L. R. 430; 7 L. G. R. 585 . . . . .	21
— v. Police Commissioners (1864), 28 J. P. 438 . . . . .	182

R. v. Poole Corporation (1887), 19 Q. B. D. 602; 56 L. J. (M. C.) 131; 57 L. T. 485; 52 J. P. 34; 36 W. R. 239; 16 Cox, C. C. 323	139, 141, 142
— v. Pratt (1867), L. R. 3 Q. B. 64; 37 L. J. (M. C.) 23; 16 W. R. 146	87
— v. Queen's County JJ., [1908] 2 I. R. 285	106
— v. Rhodes, <i>Ex parte</i> McVittie (1914), 79 J. P. 527	96
— v. Richmond (1873), 29 L. T. 408; 12 Cox, C. C. 495	132
— v. Russell (1805), 6 East, 427; 2 Smith, K. B. 424	56
— v. St. Giles (1883), 47 J. P. 756	103
— v. Shiel (1900), 82 L. T. 587; 16 T. L. R. 349, C.A.	103
— v. Shipley Parish Council (1897), 61 J. P. 488; 13 T. L. R. 486; 18 Cox, C. C. 531	142
— v. Smith (1875), L. R. 10 Q. B. 604; 32 L. T. 394; 39 J. P. 292, 613; 23 W. R. 523	96
— v. Solomons, [1909] 2 K. B. 980; 79 L. J. (K. B.) 8; 101 L. T. 496; 73 J. P. 467; 25 T. L. R. 747	186
— v. Southampton County (Inhabitants) (1852), 18 Q. B. 841; 21 L. J. (M. C.) 201; 17 Jur. 254	142
— v. ——— (Inhabitants) (1887), 19 Q. B. D. 590; 56 L. J. (M. C.) 112; 57 L. T. 261; 52 J. P. 52; 16 Cox, C. C. 271	143
— v. Sparks and others, JJ. (1909), 73 J. P. 485	106
— v. Surrey JJ. (1880), 6 Q. B. D. 100; 50 L. J. (M. C.) 10; 43 L. T. 500; 45 J. P. 93; 29 W. R. 260	99, 100
— v. Taylor (1898), 62 J. P. 67	106
— v. Thackwell (1825), 4 B. & C. 62; 6 Dow. & Ry. (K. B.) 61; 3 Dow. & Ry. (M. C.) 337	100
— v. Thompson, <i>Ex parte</i> Martin, [1909] 2 K. B. 614; 78 L. J. (K. B.) 1085; 100 L. T. 970; 73 J. P. 403; 25 T. L. R. 651; 7 L. G. R. 979	74, 98
— (Taverner) v. Tyrone JJ., [1909] 2 I. R. 763	106
— v. Wells (1904), 91 L. T. 98; 68 J. P. 392; 20 T. L. R. 549; 20 Cox, C. C. 671; 45 L. G. R. 913	76, 96, 98
— v. Williamson (1881), 2 L. J. 505	151
— v. Wood, <i>Ex parte</i> Anderson, [1922] 1 K. B. 674; 91 L. J. (K. B.) 573; 126 L. T. 522; 86 J. P. 64; 38 T. L. R. 269; 66 Sol. Jo. 453; 20 L. G. R. 189	35
— v. Woodcock, [1907] 2 K. B. 104; 76 L. J. (K. B.) 683; 96 L. T. 672; 71 J. P. 241; 21 Cox, C. C. 429	102
— v. Wynn (1887), 56 L. T. 749; 52 J. P. 55; 16 Cox, C. C. 231	132
— v. Yorkshire (West Riding) JJ., <i>Ex parte</i> Shackleton, [1910] 1 K. B. 439; 79 L. J. (K. B.) 244; 102 L. T. 138; 22 Cox, C. C. 280	21, 86, 87
Raglan Highway Board v. Monmouth Steam Coal Co. (1881), 46 J. P. 598	151
Randall, <i>Ex parte</i> . See R. v. Metropolitan Police Commissioner, <i>Ex parte</i> Randall.	
Read v. Perrett (1876), 1 Ex. D. 349	86
Readhead v. Midland Ry. Co. (1867), L. R. 2 Q. B. 412; 36 L. J. (Q. B.) 181; 16 L. T. 485; 15 W. R. 831; on appeal (1869), L. R. 4 Q. B. 379; 9 B. & S. 19; 38 L. J. (Q. B.) 169; 20 L. T. 628; 17 W. R. 737	120, 123, 127

# TABLE OF CASES

xxxix

	PAGE
Reichardt <i>v.</i> Shard (1914), 30 T. L. R. 81; affirmed, 31 T. L. R. 24, C.A. . . . .	64
Reigate Rural District Council <i>v.</i> Sutton District Water Co., Ewart, Third Party, [1909] W. N. 28; 78 L. J. (κ. B.) 315; 100 L. T. 354; 73 J. P. 161; 25 T. L. R. 266; 53 Sol. Jo. 243; 7 L. G. R. 280, C.A. . . . .	155, 156
Richardson <i>v.</i> Rowntree, [1894] A. C. 217; 63 L. J. (Q. B.) 283; 70 L. T. 817; 58 J. P. 493; 7 Asp. M. L. C. 482; 6 R. 95 . . . .	125
Ricketts <i>v.</i> Tilling (Thomas), Ltd. (1913), 30 T. L. R. 132; reversed (1914), 31 T. L. R. 17, C.A. . . . .	64
Ripon Rural District Council <i>v.</i> Armitage and Hodgson, [1919] 1 K. B. 559; 88 L. J. (κ. B.) 728; 120 L. T. 611; 83 J. P. 112; 17 L. G. R. 269 . . . . .	157
Robertson <i>v.</i> Wilson, [1912] S. C. 1276; 49 Sc. L. R. 916 . . . .	63
Robins & Co. <i>v.</i> Gray, [1895] 2 Q. B. 501; 65 L. J. (Q. B.) 44; 73 L. T. 252; 59 J. P. 741; 4 W. R. 1; 14 R. 671, C.A. . . . .	108
Robinson <i>v.</i> London General Omnibus Co., Ltd. (1910), 74 J. P. 161; 26 T. L. R. 233 . . . . .	56
Robson <i>v.</i> Drummond (1831), 2 B. & Ad. 303; 9 L. J. (O. S.) (κ. B.) 187 . . . . .	110
Rogers <i>v.</i> Macnamara (1853), 14 C. B. 27; 23 L. J. (C. P.) 1; 17 Jur. 1166; 2 W. R. 19; 2 C. L. R. 569 . . . . .	177, 180
Rosin and Turpentine Import Co., Ltd. <i>v.</i> Jacobs (B.) & Sons, Ltd. (1909), 101 L. T. 56; 25 T. L. R. 687; 14 Com. Cas. 247; 11 Asp. M. L. C. 260; affirmed, 102 L. T. 81; 26 T. L. R. 259; 54 Sol. Jo. 268; 15 Com. Cas. 111; 11 Asp. M. L. C. 363 . . . .	108, 125
Ross <i>v.</i> Hill (1846), 2 C. B. 877; 3 Dow. & L. 788; 15 L. J. (C. P.) 182 . . . .	123
Ruoff <i>v.</i> Long & Co., [1916] 1 K. B. 148; 85 L. J. (κ. B.) 364; 114 L. T. 186; 80 J. P. 158; 32 T. L. R. 82; 60 Sol. Jo. 323 . . . .	89
Rust <i>v.</i> St. Botolph, Bishopsgate (1906), 94 L. T. 576 . . . . .	103
Rutter <i>v.</i> Palmer, [1922] 2 K. B. 87; 91 L. J. (κ. B.) 657; 38 T. L. R. 555; 66 Sol. Jo. 576, C.A. . . . .	108
S.	
SALES <i>v.</i> Lake, [1922] 1 K. B. 553; 91 L. J. (κ. B.) 563; 126 L. T. 636; 86 J. P. 80; 38 T. L. R. 336; 66 Sol. Jo. 453; 20 L. G. R. 259 . . . . .	193
Samson <i>v.</i> Aitchison, [1912] A. C. 844; 82 L. J. (P. C.) 1; 107 L. T. 106; 28 T. L. R. 559; 50 Sc. L. R. 623 . . . . .	64
Sanderson <i>v.</i> Collins, [1904] 1 K. B. 628; 73 L. J. (κ. B.) 358; 90 L. T. 243; 52 W. R. 354; 20 T. L. R. 249 . . . . .	119
Sandgate Urban District Council <i>v.</i> Kent County Council (1898), 79 L. T. 425; 15 T. L. R. 59 . . . . .	136
Saunders <i>v.</i> South Eastern Ry. Co. (1880), 5 Q. B. D. 456; 49 L. J. (Q. B.) 761; 43 L. T. 281; 44 J. P. 781; 29 W. R. 56 . . . .	129
Savin <i>v.</i> Oswestry Highway Board (1880), 44 J. P. 766. . . . .	149
Schulze <i>v.</i> Steel (1890), 54 J. P. 232; 17 R. (Ct. of Sess.) 47; 27 Sc. L. R. 636; 2 White, 449 . . . . .	49
Searle <i>v.</i> Laverick (1874), L. R. 9 Q. B. 122; 44 L. J. (Q. B.) 43; 30 L. T. 89; 22 W. R. 367 . . . . .	107
Seton <i>v.</i> Lafone (1887), 19 Q. B. D. 68; 56 L. J. (Q. B.) 415; 57 L. T. 547; 35 W. R. 749, C.A. . . . .	109

Shackleton, <i>Ex parte</i> . See <i>R. v. Yorkshire (West Riding) JJ.</i> , <i>Ex parte Shackleton</i> .	
Sharpness New Docks and Gloucester and Birmingham Navigation Co. <i>v.</i> Att.-Gen., [1915] A. C. 654; 84 L. J. (K. B.) 907; 112 L. T. 826; 79 J. P. 305; 31 T. L. R. 254; 59 Sol. Jo. 381; 13 L. G. R. 563 . . . . .	137, 149, 152
Shaw <i>v.</i> Great Western Ry. Co., [1894] 1 Q. B. 373; 70 L. T. 218; 58 J. P. 318; 42 W. R. 285; 10 R. 85 . . . . .	124, 126
Shepton Mallet Rural Council <i>v.</i> Wainwright (John) & Co. (1908), 72 J. P. 459; 24 T. L. R. 894; 6 L. G. R. 1121 . . . . .	150, 153
Sherras <i>v.</i> De Rutzen, [1895] 1 Q. B. 918; 64 L. J. (M. C.) 218; 72 L. T. 839; 59 J. P. 440; 43 W. R. 526; 18 Cox, C. C. 157; 15 R. 288 . . . . .	83
Shoreditch Corporation <i>v.</i> Bull, [1904] 2 K. B. 756; 90 L. T. 210; 68 J. P. 415; 20 T. L. R. 254; 2 L. G. R. 756 . . . . .	161
Simmonds <i>v.</i> Pond (1918), 35 T. L. R. 187 . . . . .	21
Skinner <i>v.</i> Usher (1872), L. R. 7 Q. B. 423; 41 L. J. (M. C.) 158; 26 L. T. 430; 20 W. R. 659 . . . . .	194
Sleith <i>v.</i> Godfrey (1920), 90 L. J. (K. B.) 193; 124 L. T. 152; 85 J. P. 46; 26 Cox, C. C. 655; 18 L. G. R. 727 . . . . .	60, 84
Smith <i>v.</i> Bailey, [1891] 2 Q. B. 403; 60 L. J. (Q. B.) 779; 65 L. T. 330; 56 J. P. 116; 40 W. R. 28 . . . . .	14, 121
—— <i>v.</i> Boon (1901), 84 L. T. 593; 65 J. P. 486; 49 W. R. 480; 17 T. L. R. 472; 19 Cox, C. C. 698 . . . . .	78
—— <i>v.</i> Chotley District Council, [1897] 1 Q. B. 532, 678; 66 L. J. (Q. B.) 427; 76 L. T. 637; 61 J. P. 340; 45 W. R. 417, C.A. . . . .	105
—— <i>v.</i> General Motor Cab Co., Ltd., [1911] A. C. 188; 80 L. J. (K. B.) 839; 105 L. T. 113; 27 T. L. R. 370; 55 Sol. Jo. 439; 4 B. W. C. C. 249 . . . . .	121, 185
—— <i>v.</i> Moody, [1903] 1 K. B. 56; 72 L. J. (K. B.) 43; 87 L. T. 682; 67 J. P. 69; 51 W. R. 252; 19 T. L. R. 7; 20 Cox, C. C. 369 . . . . .	98
—— <i>v.</i> Perry, [1906] 1 K. B. 262; 75 L. J. (K. B.) 124; 94 L. T. 140; 70 J. P. 93; 22 T. L. R. 158; 21 Cox, C. C. 98; 4 L. G. R. 224 . . . . .	84, 87
—— <i>v.</i> Pickering, [1915] 1 K. B. 326; 84 L. J. (K. B.) 262; 112 L. T. 452; 79 J. P. 118; 31 T. L. R. 55; 13 L. G. R. 175 . . . . .	90
Smitton <i>v.</i> Orient Steam Navigation Co., Ltd. (1907), 96 L. T. 848; 23 T. L. R. 359; 12 Com. Cas. 230; 10 Asp. M. L. C. 459 . . . . .	125
Spencer <i>v.</i> Sheerman (1871), 23 L. T. 873 . . . . .	48
Star Omnibus Co. <i>v.</i> Tagg (1907), 97 L. T. 481; 71 J. P. 352; 23 T. L. R. 488; 21 Cox, C. C. 519; 5 L. G. R. 808 . . . . .	10
Steer <i>v.</i> Bennett (1903), 67 J. P. 112 . . . . .	99
Stokes <i>v.</i> Mitcheson, [1902] 1 K. B. 857; 71 L. J. (K. B.) 677; 86 L. T. 767; 66 J. P. 615; 50 W. R. 553; 20 Cox, C. C. 254 . . . . .	102
Stone, <i>Ex parte</i> (1909), 73 J. P. 444; 25 T. L. R. 787 . . . . .	78
Story <i>v.</i> Sheard, [1892] 2 Q. B. 515; 61 L. J. (M. C.) 178; 67 L. T. 433; 56 J. P. 760; 41 W. R. 31 . . . . .	149

## T.

Taff Vale Ry. Co. <i>v.</i> Canning, [1909] 2 Ch. 48; 78 L. J. (Ch.) 492; 100 L. T. 845 . . . . .	137
--	-----

# TABLE OF CASES

xli

	PAGE
Taylor, <i>Ex parte</i> . See R. v. Lilley, <i>Ex parte</i> Taylor.	
— v. Goodwin (1879), 4 Q. B. D. 228; 48 L. J. (M. C.) 104; 40 L. T. 458; 43 J. P. 653; 27 W. R. 489	77
Teddington Urban Council v. Vile (1906), 70 J. P. 381; 4 L. G. R. 782	104
Thorogood v. Bryan (1849), 8 C. B. 115; 18 L. J. (C. P.) 336	129
Todrick v. Dennelar (1904), 42 Sc. L. R. 199	78
Troughton v. Manning (1905), 92 L. T. 855; 69 J. P. 207; 53 W. R. 493; 21 T. L. R. 408; 20 Cox, C. C. 861; 3 L. G. R. 548	76, 79
Turley v. Thomas (1837), 8 C. & P. 103	61

## U.

UMPHRAY v. Ganson Brothers, [1917] S. C. 371; 54 Sc. L. R. 377	62
Unwin v. Hanson, [1891] 2 Q. B. 115; 60 L. J. (Q. B.) 531; 65 L. T. 511; 55 J. P. 662; 39 W. R. 587, C.A.	163

## V.

VENABLES v. Smith (1877), 2 Q. B. D. 279; 46 L. J. (Q. B.) 470; 36 L. T. 509; 25 W. R. 584	185
---	-----

## W.

WAKEFIELD Local Board v. West Riding Ry. Co. (1866), 30 J. P. 628	104
Wakeman v. Robinson (1823), 1 Bing. 213; 8 Moore, C. P. 63; 2 Chit. 639.	65
Wallace v. Bergius, [1915] S. C. 205; 52 Sc. L. R. 130	61, 62
Walton (Isaac) & Co. v. Vanguard Omnibus Co., Ltd (1908), 72 J. P. 505; 25 T. L. R. 13; 53 Sol. Jo. 82; 7 L. G. R. 349	64
Waters v. Eddison Steam Rolling Co., [1914] 3 K. B. 818; 83 L. J. (K. B.) 1550; 78 J. P. 327; 30 T. L. R. 587; 12 L. G. R. 1232	13
Watkins v. Reddin (1861), 2 F. & F. 629	57
Waugh v. Campbell, [1920] S. C. (J.) 1	78
Webster v. Terry, [1914] 1 K. B. 51; 83 L. J. (K. B.) 272; 109 L. T. 982; 78 J. P. 34; 30 T. L. R. 23; 12 L. G. R. 242	17, 67
Wellwood v. King, Ltd., [1921] 2 L. R. 274, C.A.	111
Welton v. Taneborne (1908), 99 L. T. 668; 72 J. P. 419; 24 T. L. R. 873; 21 Cox, C. C. 702; 6 L. G. R. 891	79
Wemyss v. Hopkins (1875), L. R. 10 Q. B. 378; 44 L. J. (M. C.) 101; 32 L. T. 9; 23 W. R. 691	79
White v. Jackson, [1915] W. N. 256; 84 L. J. (K. B.) 1900; 113 L. T. 783; 79 J. P. 447; 31 T. L. R. 505; 13 L. G. R. 1319	21
— v. Steadman, [1913] 3 K. B. 340; 82 L. J. (K. B.) 846; 109 L. T. 249; 29 T. L. R. 563	120, 186
Whitebread v. Sevenoaks Highway Board, [1892] 1 Q. B. 8; 61 L. J. (M. C.) 59; 65 L. T. 855; 56 J. P. 214	147, 148, 150, 152
Whiteley (Wm.), Ltd. v. Hilt, [1918] 2 K. B. 808; 87 L. J. (K. B.) 1058; 119 L. T. 632; 34 T. L. R. 592; 62 Sol. Jo. 717, C.A.	131
Whyler v. Bingham Rural District Council, [1901] 1 K. B. 45; 70 L. J. (K. B.) 207; 83 L. T. 652; 64 J. P. 77; 17 T. L. R. 23, C.A.	161
Wiehe v. Dennis Brothers (1913), 29 T. L. R. 250	108
Wilder, <i>Ex parte</i> (1902), 66 J. P. 761	106

	PAGE
Williams, <i>Re</i> (1851), 21 L. J. (M. C.) 46 . . . . .	90
Williams <i>v.</i> Davies (1880), 44 J. P. 347 . . . . .	151, 159
——— <i>v.</i> Midland Ry. Co., [1908] 1 K. B. 252; 77 L. J. (K. B.) 157; 98 L. T. 81; 24 T. L. R. 170; 13 Com. Cas. 119, C.A. . . . .	125
——— <i>v.</i> Morgan (1920), 125 L. T. 543; 85 J. P. 191; 19 L. G. R. 409 . . . . .	45
——— <i>v.</i> Richards (1852), 3 C. & K. 81 . . . . .	63
Willingale <i>v.</i> Norris, [1909] 1 K. B. 57; 78 L. J. (K. B.) 69; 99 L. T. 830; 72 J. P. 495; 25 T. L. R. 19; 21 Cox, C. C. 737; 7 L. G. R. 76 . . . . .	99
Wills & Sons <i>v.</i> McSherry, [1913] 1 K. B. 20; 82 L. J. (K. B.) 71; 107 L. T. 848; 77 J. P. 65; 29 T. L. R. 48; 23 Cox, C. C. 254 . . . . .	104
Wilmot <i>v.</i> Southwell (1909), 99 L. T. 839; 72 J. P. 491; 25 T. L. R. 22; 7 L. G. R. 8 . . . . .	5
Wilson <i>v.</i> Brett (1843), 11 M. & W. 113; 12 L. J. (EX.) 264 . . . . .	122
——— <i>v.</i> General Iron Screw Collier Co. (1877), 47 L. J. (Q. B.) 239; 37 L. T. 789 . . . . .	110
Windlesham Urban District Council <i>v.</i> Seward and others, Eveleigh, Third Party (1912), 77 J. P. 161; 11 L. G. R. 324 . . . . .	153, 154
Wing <i>v.</i> London General Omnibus Co., [1909] 2 K. B. 652; 78 L. J. (K. B.) 1063; 101 L. T. 411; 73 J. P. 429; 25 T. L. R. 729; 53 Sol. Jo. 713; 7 L. G. R. 1093, C.A. . . . .	57, 65, 128
Winkfield, The, [1902] P. 42; 71 L. J. (P) 21; 85 L. T. 688; 18 T. L. R. 178; 50 W. R. 246; 9 Asp. M. L. C. 259 . . . . .	111
Wirral Highway Board <i>v.</i> Newell, [1895] 1 Q. B. 827; 64 L. J. (M. C.) 181; 72 L. T. 535; 59 J. P. 183; 43 W. R. 328; 15 R. 309 . . . . .	146
Wolverhampton Corporation <i>v.</i> Salop County Council (1895), 64 L. J. (M. C.) 179; 43 W. R. 494 . . . . .	150
Woodard <i>v.</i> Billericay Highway Board (1879), 11 Ch. D. 214; 48 L. J. (CH.) 535; 27 W. R. 593 . . . . .	163
Woodward <i>v.</i> Boustead (1908), M. U. D., p. 35 . . . . .	82
Woolley <i>v.</i> Corbishley (1860), 24 J. P. 773 . . . . .	86
Wordsworth <i>v.</i> Willan (1805), 5 Esp. 273 . . . . .	62
Wright <i>v.</i> Dumbartonshire J.J. (1910), 47 Sc. L. R. 699 . . . . .	69
——— <i>v.</i> London General Omnibus Co., Ltd. (1877), 2 Q. B. D. 271; 4 L. J. (Q. B.) 429; 36 L. T. 590; 25 W. R. 647 . . . . .	186, 209, 230
——— <i>v.</i> Mitchell, [1910] S. C. (J.) 94 . . . . .	69
Wycombe Rural District Council <i>v.</i> Smith (1903), 67 J. P. 75 . . . . .	151
Wynne <i>v.</i> Ronaldson (1865), 12 L. T. 711; 13 W. R. 899 . . . . .	102

## Y.

YEAMAN <i>v.</i> Jameson, [1910] S. C. (J.) 8; 47 Sc. L. R. 158; 6 Adam, 149 . . . . .	69, 166
Yelland <i>v.</i> Vincent (1883), 47 J. P. 230 . . . . .	49
——— <i>v.</i> Winter (1885), 53 L. T. 912; 50 J. P. 38; 34 W. R. 121 . . . . .	49
Yorkshire (Woollen District) Electric Tramways, Ltd. <i>v.</i> Ellis, [1905] 1 K. B. 396; 74 L. J. (K. B.) 172; 92 L. T. 202; 69 J. P. 67; 53 W. R. 303; 21 T. L. R. 163; 20 Cox, C. C. 795; 3 L. G. R. 139 . . . . .	224
Young & Harston, <i>Re</i> (1885), 31 Ch. D. 168; 53 L. T. 837; 50 J. P. 245; 34 W. R. 84, C.A. . . . .	87

# LAW RELATING TO MOTOR CARS

## CHAPTER I

- |   |                           |
|---|---------------------------|
| (A) INTRODUCTORY.                           | (b) Of Public Vehicles.   |
| (B) CONSTRUCTION AND EQUIP-<br>MENT—        | (c) Of Heavy Locomotives. |
| (a) Of Light Locomotives and<br>Motor Cars. | (d) Of Trailers.          |

### (A) INTRODUCTORY

THE law relating to locomotives, motor cars, and other mechanically propelled vehicles, and to the use of them upon the highway, is, as would be expected in the absence of codification, a somewhat tangled mass of common law, statute law, case law, bye-laws, and regulations, eloquent of the rapid development of mechanical traction and of the almost equally rapid changes of public sentiment regarding it.

The original foundation of the law of mechanical traction is the law of the traction engine and heavy locomotive, and it was not until the Locomotives on Highways Act, 1896, that the law began to take account of the unsuitability of provisions made for traction engines for application to the light locomotives that were the forerunners of the modern motor car.

Except in origin, the heavy locomotive and the motor car have little in common, and no doubt the time will come, and soon, when the two subjects are separated completely and receive entirely different treatment; but at present the motor car is, legally speaking, only a special kind of road locomotive, and the law relating to it is only an exerescence upon the law of road engines and a matter of exceptions to that law.

Much of the difficulty of the subject arises from this and from the want of a code in which the various provisions and regulations could be collected, classified, and re-enacted in a simple and intelligible form.

Presumably the first fierce rush of development is now spent, and the necessity for the issue of frequent and hasty regulations (not seldom ill-drafted and at times ill-advised) has passed, and the industry of motor manufacture and the multifarious uses of the mechanical vehicle now play so important a part in the life of the nation that it is time that the law was re-cast.

No doubt that law requires, and could well be the immediate subject of, many reforms ; that is a political and not a legal question. But, reformed or not, it is time that the law was reduced to a clear and easily accessible form, and if this were undertaken, it would of itself resolve many of the difficulties and obscurities that at present confront all those who are concerned with it, alike in its administration and in its observance.

The arrangement of this book is to deal firstly with the legal requirements as to the construction of the various classes of vehicles within its scope, then with their taxation and licensing, then with the matters arising out of their use upon the roads, then with the legal procedure with regard to offences, then with the rights and obligations of hirers, garage proprietors, and others dealing with such vehicles, and finally with some matters of highway law and of the international arrangements for the temporary use in one country of vehicles belonging to and registered in another.

## **(B) CONSTRUCTION AND EQUIPMENT**

### **(a) OF LIGHT LOCOMOTIVES AND MOTOR CARS**

The construction of light locomotives and motor cars (a) has been made the subject of various regulations by Orders made under the Locomotives on Highways Act, 1896, of which the principal are the Motor Cars (Use and

(a) As to what is a "motor car," see *post*, p. 16.

Construction) Order, 1904, and Orders amending it, and the Heavy Motor Car Order, 1904, and Orders amending it.

The first of these sets of Orders relates to all such vehicles, and the second set to such vehicles only if they exceed two tons in weight unladen, and thus fall into the class of "heavy motor cars" as defined by the Heavy Motor Car Order, 1904, Art. II.

"Weight unladen," for the purposes of these Orders, means the weight of the vehicle exclusive of the weight of any water, fuel, or accumulators used for the purpose of propulsion (M.C. (U. & C.) O. 1904, Art. I; H.M.C.O. 1904, Art. II). The regulations contained in these Orders are very detailed, and deal with the following topics so far as regards construction, all of which must be complied with before anyone may cause or permit to be used, or drive, or have charge of any such vehicle on any road to which the public are granted access.

### *Reversing Gear*

Every light locomotive or motor car, if it exceeds in unladen weight seven hundredweights, must be so constructed that it can travel either forwards or backwards (M.C. (U. & C.) O. 1904, Art. II (1)). The weight was originally five hundredweights, but was raised to seven hundredweights by the Motor Cars (Use and Construction) Amendment Order, 1911.

### *Width*

No light locomotive or motor car of an unladen weight of under three tons may exceed in width seven feet two inches, measured between its extreme projecting points (M.C. (U. & C.) O. 1904, Art. II (2); H.M.C.O. 1904, Art. IX). If the unladen weight is three tons or over, the width may be seven feet six inches (H.M.C.O. 1904, Art. IX).

### *Tyres*

The tyres used upon a light locomotive or motor car of an unladen weight of up to three tons, if they are not

pneumatic or made of a soft or elastic material, must be smooth and flat where they touch the ground and of a width of not less than two and a half inches if the unladen weight of the vehicle exceeds fifteen hundredweights but does not exceed one ton, not less than three inches if the unladen weight exceeds one ton but does not exceed two tons, and not less than four inches if the weight exceeds two tons but does not exceed three tons (M.C. (U & C.) O. 1904, Art. II (3.))

In the case of a heavy motor car the tyres, unless they are pneumatic or made of a soft or elastic material, are required to be smooth and, where they touch the surface of the road or other base upon which the vehicle moves or rests, to be flat, save that the edges may be bevelled or rounded to the extent in the case of each edge of not more than half an inch, and provided that, if the tyre is constructed of several plates, the plates may be separated by parallel spaces so disposed throughout the outer surface of the tyre that nowhere shall the aggregate extent of such spaces in the course of a straight line drawn horizontally across the circumference of the wheel exceed one-eighth part of the width of the tyre (H.M.C.O. 1904, Art. VI (1)). The width of the tyre of a heavy motor car may never be less than five inches, and, if the registered axle-weight of the axle to which the wheel is attached exceeds ten units, then half an inch must be added for each unit after ten (H.M.C.O. 1904, Art. VI (2)). Registered axle-weight is assessed in units which vary according to the diameter of the wheel (see p. 6).

The width of a tyre means the distance measured horizontally and in a straight line across the circumference of the wheel and between the two points in the outer surface of the tyre which are farthest apart (H.M.C.O. 1904, Art. II).

As to the tyres of heavy motor cars belonging to the Crown and employed for military purposes, see H.M.C.O. 1904, Art. XVII (6).

### *Brakes*

A motor car must have two independent brakes in good working order and of such efficiency that the application of

either to the vehicle shall cause two of its wheels on the same axle to be so held that the wheels shall be effectually prevented from revolving, or shall have the same effect in stopping the vehicle as if such wheels were so held.

In the case of a vehicle having less than four wheels this condition applies to one wheel on an axle, where there is only one.

Each of the two brakes must be able to be operated independently of the other, in order to comply with the Order (*Cannon v. Jefford*, [1915] 3 K. B. 477). And in the ordinary case the fact that the machinery and wheels of the vehicle can be locked by means of the engine does not make the engine an independent brake for the purposes of this section (*Wilmott v. Southwell* (1909), 72 J. P. 491. But by the Motor Cars (Use and Construction) Amendment Order, 1913, in the special case of a vehicle which is driven by steam and exceeds two tons in unladen weight and is not used either as a stage carriage or otherwise to convey passengers for hire or for gain, the engine may be regarded as an independent brake if there exists another independent brake capable of holding the wheels on one axle so that they cannot revolve.

### *Silencers*

Every light locomotive, motor car, or heavy motor car which is propelled by an internal combustion engine must be fitted with a silencer, expansion chamber or other contrivance, suitable and sufficient to reduce as far as may reasonably be practicable the noise which would otherwise be caused by the escape of the exhaust gases from the engine, and the use of any cut-out, fitting or other device which allows the gases to escape otherwise is forbidden (M.C. (U. & C.) O. 1904, Art. IV (7) ; H.M.C.O. 1904, Art. XVI). This requirement also applies to motor cycles (Motor Cars (Use and Construction) Amendment Order (No. II), 1912).

### *Lamps*

No lamp carried on a light locomotive or motor car may be constructed, fitted or attached as to enable the light exhibited by it to be moved or to be used as a searchlight.

*Statement of Weight and Speed*

In the case of all light locomotives or motor cars exceeding fifteen hundredweights in unladen weight and fitted with tyres which are not pneumatic or made of a soft or elastic material, the unladen weight must be painted conspicuously on the off side in large, legible letters in white upon black or black upon white, not less than one inch in height (M.C. (U. & C.) O. 1904, Art. II (5)).

In the case of all heavy motor cars there must be painted or otherwise clearly marked on some conspicuous part of the off side of the vehicle, in letters and figures not less than one inch in height and of such shape and colour as clearly to be legible and distinguishable from the colour of the ground on which they are painted or marked, the registered unladen weight of the vehicle and the registered axle-weight of each axle (H.M.C.O. 1904, Art. IV (4), as amended by the Road Vehicles (Registration and Licensing) Regulations, 1921, Art. 38).

The axle-weight means the aggregate weight transmitted to the surface of the road or other base upon which the vehicle moves or rests by the several wheels attached to that axle when the vehicle is loaded (H.M.C.O. 1904, Art. II).

This axle-weight is registered in units varying with the diameter of the wheel measured between the two opposite points in the outer surface of the tyre which are farthest apart (H.M.C.O. 1904, Art. VI (2) and Art. II).

If the diameter is three feet, the unit is to be seven and a half hundredweights. If it exceeds three feet, then the unit shall be increased in the proportion of one hundredweight for every twelve inches excess, and if it is less than three feet, the unit is to be decreased in the proportion of one hundredweight for every six inches deficiency (H.M.C.O. 1904, Art. VI).

There must also be painted or marked, in the same manner, but on the near side of the heavy motor car, the maximum rate of speed at which it may be driven without a trailer (H.M.C.O. 1904, Art. IV).

These markings must be kept clearly legible and clearly distinguishable by the owner of the vehicle.

### *Maximum Registered Axle-weight*

No registered axle-weight of a heavy motor car may exceed eight tons, and the sum of the registered axle-weights of all the axles may not exceed twelve tons (H.M.C.O. 1904, Art. V).

If a heavy motor car is on a highway and within half a mile by road of a public weighing machine, or any other convenient weighing machine, which belongs to, or is under the control of, a registering council, or of any other council which is a highway authority, and a duly authorised officer of the registering authority has reasonable ground for ascertaining whether the axle-weight of the car or trailer for the time being exceeds its registered or marked axle-weight, the officer may require the person in charge of the car to drive it, with or without the trailer, to the weighing machine. The officer may there cause the axle-weight for the time being of any axle to be ascertained; and the person driving, or in charge of, the car must comply with any such requirement, and must, to the best of his ability, afford all reasonable facilities for ascertaining the axle-weight of each axle (H.M.C.O. 1914, Art. XII). See also *post*, p. 92.

### *Diameter of Wheels*

In the case of a heavy motor car no wheel may be used the tyre of which is not pneumatic or made of a soft or elastic material, unless the diameter of it, measured between the two opposite points in the outer surface of the tyre which are farthest apart, is at least two feet (H.M.C.O. 1904, Art. VIII and Art. II).

### *Springs*

Every heavy motor car must be constructed with suitable and sufficient springs between each axle and the frame of the vehicle (H.M.C.O. 1904, Art. X).

*General Requirements*

The vehicle and all its fittings must be in such a condition as not to cause or be likely to cause danger to anyone either on the vehicle or on the highway (M.C. (U. & C.) O. 1904, Art. II (6) ; H.M.C.O. 1904, Art. XVI). (See *Phillips v. Britannia Hygienic Laundry Co. Ltd.*, [1923] W. N. 47.)

And the vehicle must be so constructed as to enable the driver when the vehicle is stationary, otherwise than through an enforced stoppage owing to the necessities of traffic, to stop the action of any machinery attached to or forming part of the vehicle so far as may be necessary to prevent noise, provided that this requirement shall not prevent the examination or running of the machinery rendered necessary by any failure or derangement of it (M.C. (U. & C.) O. 1904, Art. V ; H.M.C.O. 1904, Art. XVI).

*Instruments of Warning*

By the Locomotives on Highways Act, 1896, s. 3, every light locomotive or motor car is required to carry a bell or other instrument capable of giving audible and sufficient warning of the approach or position of the vehicle.

*Name and Address of Owner*

Sect. 76 of the Highway Act, 1835, provides that the owner of every "waggon cart or other such carriage" must have his name, title, and abode painted clearly on the right side of his vehicle. This provision applies to motor vehicles which are of the same character as carts or waggons, but not to others, so it will not apply to a vehicle used only partly to convey goods and used also to convey persons (*Danby v. Hunter* (1879), 5 Q. B. D. 20).

*(b) OF PUBLIC VEHICLES*

For the special requirements as to construction and equipment which operate in the case of public vehicles see *post*, Chapter IX.

*(c) OF HEAVY LOCOMOTIVES*

A variety of regulations have been made limiting the size and weight of locomotives generally and requiring them

to be constructed and equipped in certain ways and with certain apparatus. Special regulations of this nature are applicable to light locomotives and motor cars, and these have been dealt with *ante*, p. 2 *et seq.*

With regard to "heavy" or ordinary locomotives (*b*) the principal of these regulations are as follows :

*Not to be a Nuisance*

By the Locomotives Act, 1865, s. 12, it is expressly provided that no locomotive shall be so constructed or used as to be a public nuisance at common law, and it is well settled that compliance in every detail with the legal requirements as to construction and equipment will not afford any defence to anyone using a locomotive which nevertheless is found to be a public nuisance (see *A.-G. v. Scott* (No. 1), [1904] 1 K. B. 404; *Galer v. Rawson* (1889), 6 T. L. R. 17; *Bantwick v. Rogers* (1891), 7 T. L. R. 542, and *post*, p. 55).

*Smoke to be consumed*

Every locomotive is required to be constructed to consume its own smoke as far as is practicable, and it is an offence to use a locomotive not constructed on this principle or not in fact consuming its smoke as far as is practicable (Highways & Locomotives (Amendment) Act, 1878, s. 30).

Similar provision is made, as to Scotland, by the Locomotives Amendment (Scotland) Act, 1878, s. 5, and as to Ireland by the Public Roads (Ireland) Act, 1911, s. 5.

In a prosecution for this offence, if the emission of smoke is proved, the defendant can show that the locomotive is constructed on the principle of consuming its own smoke and can proceed to submit that it does so, so far as is practicable. This involves proof that the apparatus designed to secure the consumption of the smoke is in order and properly operated and that the fuel is of a proper description and quality. If he can establish both these facts, the prosecution must fail (*Pitt-Rivers v. Glasse* (1891), 55 J. P. 663).

It does not seem to be a good defence under this section that the emission was accidental or due to some temporary

(*b*) For what is a heavy or ordinary locomotive, see *post*, p. 24.

cause, as there are no words here to correspond to those in sect. 1 of the Locomotives on Highways Act, 1896 (*cf. Star Omnibus Co. v. Tagg* (1907), 97 L.T. 481).

### *Sparks*

In Ireland, by the Public Roads (Ireland) Act, 1911, s. 5, every locomotive must be fitted with a device to prevent the emission of sparks or the dropping of cinders or live embers on the road.

There is no corresponding statutory provision in England, but if sparks are emitted and cause damage, the owner of the locomotive will be liable, and it will be no defence for him to prove that he has complied with the statutory requirements as to the construction and equipment of the vehicle (*Powell v. Fall* (1880), 5 Q. B. D. 597; *Gunter v. James* (1908), 24 T. L. R. 868).

### *Size and Weight*

A locomotive may not in general be used upon a public road if it exceeds 9 feet in width, under a penalty not exceeding £5 (Highways & Locomotives (Amendment) Act, 1878, s. 28 (3); Roads Act, 1920, s. 15). But special authority to use a wider vehicle may be issued by the Mayor, Aldermen and Council of the City of London, the London County Council, the council of a county or of a quarter sessions borough in the areas of their several jurisdictions. And these authorities are empowered to annex conditions to the permission which they give to these heavier locomotives to use the highway (*c*).

By the same section of the Act of 1878 a maximum weight of 14 tons was prescribed, but by the Roads Act, 1920, s. 15, it is provided that the maximum weights prescribed under that Act shall be substituted for the 14 tons in the Act of 1878, and such weights have been prescribed under

(*c*) If the common council of the City of London make bye-laws regarding the use of locomotives in the City, and in doing so make any difference between any main road maintained by the county council and the other roads in the City, such bye-laws and the authority so given to locomotives to use the highways in the City must be approved by the London County Council (Local Government Act of 1888, 51 & 52 Vict. c. 41, s. 41 (4) (*a*)).

the Act of 1920 by the Road Vehicles (Registration and Licensing) Regulations, 1921.

By Art. 36 of those Regulations it is provided that the weight of a locomotive, exclusive of the weight of water, fuel or accumulators (other than boilers) used for propulsion, shall not exceed 15 tons 10 cwts., except that

- (a) locomotives carrying a jib crane, dynamo or extra winding drum or one or more of such fittings may weigh up to 17 tons ;
- (b) locomotives with pneumatic or soft or elastic tyres on all wheels may weigh up to 17 tons 10 cwts. ;
- (c) locomotives fitted with Boulton or other wheels approved by the Minister of Transport the tyres of which are sprung or mechanically cushioned may weigh up to 18 tons 10 cwts.

By the same Article it is provided that in the case of cable ploughing engines the winding or windlass gear shall not be included in computing the weight. The weight of water, fuel and accumulators (other than boilers) shall not exceed three tons, and not more than three-quarters of the weight of any locomotive, including for this purpose the weight of the water, fuel and accumulators, must be borne by the rear axle.

The penalty for non-compliance with the foregoing regulations is a fine not exceeding £5.

### *Width of Tyres*

Very precise regulations have been made as to the width of tyres of wheels, their object being to provide that the width of tyres shall be increased as the weight of the locomotive and of its trailers, if it draws any, becomes greater. If the locomotive does not itself exceed three tons (*d*), and draws no carriage, the tyres may be not less than three

(*d*) If it does not exceed five tons unladen, and otherwise falls within the definition of "light locomotive" in sect. 1 of the Locomotives on Highways Act, 1896 (*post*, p. 16), it is a *light locomotive*, *alias* a motor car, and none of these regulations need be observed in its construction.

inches in width, with an additional inch for every ton or fraction of a ton above the first three tons (*e*). If the locomotive draws a waggon or carriage the tyres of the driving wheels must be two inches wide for every ton of the locomotive's weight, unless the diameter of the wheel exceeds five feet. If it does so, "the width of the tyres may be reduced in the same proportion as the diameter of the wheels is increased (*f*), but in such case the width of such tyres shall not be less than fourteen inches." The words quoted from the statute are not perfectly clear. If we start with a locomotive weighing four tons and drawing a waggon, that would give a tyre of eight inches, provided the wheels were five feet in diameter. Increase the diameter by one-fifth, to six feet, and it is then allowed to diminish the width of tyre by one-fifth, and the locomotive can apparently have a tyre of eight inches *less* one-fifth thereof. It might be said that our wheel six feet in diameter is not "increased" by one-fifth, but by one-sixth; and that therefore the tyre may only be reduced in width to the extent of one-sixth of eight inches. In either case the question of interpretation is "academic," because, if, as we assume, the concluding words of the subsection after "in such case" refer back to the whole subsection (*g*), no locomotive drawing a waggon or carriage may have tyres of less than fourteen inches in width. If a locomotive of twelve tons and drawing a waggon be taken, that must have twenty-four inch tyres if the diameter of the wheel is five feet. Increase this diameter by one-fifth to six feet, and the twenty-four inch tyre can be reduced by one-fifth to  $19\frac{1}{5}$  inches. As to driving wheels, further requirements were laid down in the Act of 1878 (*h*); but by the Locomotives on Highways Act, 1896 (*i*), the Local Government Board were authorised to vary these require-

(*e*) Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77, s. 28 (1)), *post*, p. 259.

(*f*) *Ibid.* sect. 28 (2).

(*g*) It is arguable that they only refer back as far as the words "unless the diameter," etc., in line 4 of the subsection.

(*h*) Sect. 28 (4).

(*i*) 59 & 60 Vict. c. 36, s. 9, *post*, p. 263.

ments; and by an Order of November 21, 1903 (*k*), and an Order of August 7, 1905 (*k*), considerable variation has been made in them, and the Minister of Transport now has power further to vary them if he thinks fit to do so.

The present position is that driving wheels must be cylindrical and must be smooth soled or shod with diagonal crossbars, or shod with wooden blocks, or shod with a single row of moveable feet.

If crossbars are used, these must be diagonal, must be not less than three inches wide, and must extend to the full width of the tyre, and must not be more than  $\frac{3}{4}$  inch in thickness.

If wooden blocks or the "pedrail" are used the detailed requirements of the Orders referred to in Note (*k*) below must be strictly complied with.

To use spikes as an assistance on heavy or frozen roads is clearly an offence against these provisions (see *Milne v. Maclellennan* (1902), 4 F. Just. Cas. 79).

### *Inscription of Weight and Owner's Name*

The Locomotives Act, 1861, s. 12, requires that the weight of every locomotive—that is to say, the weight exclusive of the weight of water or fuel—and the name of the owner or owners shall be conspicuously and legibly affixed to the vehicle (*Waters v. Eddison Steam Rolling Co.* (1914), 78 J. P. 327).

Fraudulently to affix any incorrect statement of weight is by the same section made an offence punishable by a fine not exceeding £10.

By the Locomotive Act, 1865, s. 7, both the name and the residence of the owner or owners are required to be affixed, under a penalty of £2.

The fact that the name of the owner is so affixed, in compliance with the Statutes, does not cast upon him any liability for damage caused by the locomotive when

(*k*) S. R. O. 1903, No. 1003, dealing with the blocks which form the shoes of wheels, and S. R. O. 1905, No. 930, dealing with vehicles fitted with "pedrails."

not under his control or the control of his servant (*Smith v. Bailey*, [1891] 2 Q. B. 403).

#### (d) OF TRAILERS

Trailers—that is to say, all vehicles drawn by a light locomotive or motor car—are themselves subject to many of the provisions as to construction which apply to the locomotives or motor cars to which they are attached (M.C. (U. & C.) O. 1904, Art. III ; H.M.C.O. 1904, Arts. XI and XVI).

They may be of no greater width than the locomotive or motor car may be. The regulations as to springs and the minimum size of wheels are the same as apply to light locomotives, motor cars, and heavy motor cars, and the requirement that the vehicle and its fittings shall be in such a condition that they will not, and are not likely to, cause danger to any person on the vehicle itself or on the highway applies equally to trailers (M.C. (U. & C.) O. 1904, Art. III ; H.M.C.O. 1904, Art. XI).

But with regard to certain matters special regulations as to the construction of trailers have been made.

#### *Brakes*

Any trailer exceeding two hundredweights in unladen weight is required to have one brake of the same efficiency as is required in the case of the brakes upon motor cars (M.C. (U. & C.) O. 1904, Art. III).

And either this brake must be so arranged as to come simultaneously into play whenever either of the brakes upon the light locomotive or motor car which is drawing it is applied, or it must be capable of being applied by a person in the light locomotive or motor car independently of the brakes of the latter, or a person must be carried on the trailer itself competent efficiently to apply the brake upon it (*ibid.*).

#### *Tyres.*

Every trailer drawn by a heavy motor car which exceeds one ton in unladen weight is required to conform to the

regulations as to the width of tyres applicable to heavy motor cars, except that three inches must be substituted for the minimum width of five inches specified in those regulations, and the axle-weight taken must be the axle-weight of the trailer (H.M.C.O. 1904, Art. XI (2)). With this exception, the regulations as to the tyres of trailers are identical with those applicable to light locomotives and motor cars.

### *Statement of Weight*

A trailer drawn by a heavy motor car must have its unladen weight marked upon some conspicuous place on the off side in the same manner as a heavy motor car is required to have its registered unladen weight marked upon it (H.M.C.O. 1904, Art. XI (1)).

And if the unladen weight of such trailer exceeds one ton, the axle-weight of each axle of the trailer must also be marked in the same way upon the off side of it (*ibid.*).

### *Maximum Axle-weight*

The axle-weight of any axle of a trailer drawn by a heavy motor car may not exceed four tons (H.M.C.O. 1904, Art. XI (3)).

## CHAPTER II

### LICENSING, REGISTRATION AND IDENTIFICATION

- (A) LICENSING OF DRIVERS—  
(a) Of Light Locomotives and Motor Cars generally.  
(b) Of Public Vehicles.  
(c) Of Heavy Locomotives.

- (B) LICENSING OF VEHICLES—  
(a) Generally.  
(b) Public Vehicles.  
(C) REGISTRATION OF VEHICLES.  
(D) IDENTIFICATION MARKS.

#### (A) LICENSING OF DRIVERS

##### (a) OF LIGHT LOCOMOTIVES AND MOTOR CARS GENERALLY

BEFORE any person may drive a motor car on any public highway he must be duly licensed so to do under the provisions of sect. 3 of the Motor Car Act, 1903. By section 20 of the Act the provisions of the Act itself and those of the Locomotives on Highways Act, 1896, are made applicable in the case of any roadway to which the public are granted access, to the same extent as in the case of a public highway, so that the driving licence for which section 3 of the Act provides is required by anyone driving a motor car on any road to which the public have access, whether it is a public highway or not.

#### *“ Motor Car ”*

Section 20 (1) of the Act of 1903 provides that the expression “motor car” in the Act shall have the same meaning as the expression “light locomotive” has in the Locomotives on Highways Act, 1896, as amended by the Act of 1903.

By the Act of 1896, s. 1, “light locomotive” was defined to mean “any vehicle propelled by mechanical power if it is under three tons in weight unladen and is not used for the purpose of drawing more than one vehicle (such vehicle with its locomotive not to exceed in weight unladen four tons) and is so constructed that no smoke or visible vapour

is emitted therefrom except from any temporary or accidental cause."

That original definition of "light locomotive" has been modified by the operation of sect. 12 of the Act of 1903, and by Orders made in accordance with the provisions of that section, so far as the weights unladen are concerned, and seven and a quarter tons and nine and three-quarter tons have been substituted for three tons and four tons respectively (see *Evans v. Nicholl*, [1909] 1 K. B. 779; Heavy Motor Car Order, 1904, Art. III; and Heavy Motor Car (Amendment) Order, 1921).

As to what is or shall be deemed to be the unladen weight of a vehicle, see Roads Act, 1920, s. 7 (6), and *ante*, p. 3.

The definition of "motor car" is very wide and must be strictly interpreted. It has been held to cover an invalid carriage propelled by a small electric motor developing about a quarter of one horse-power, and clearly covers an ordinary bicycle to which any form of auxiliary mechanical means of propulsion is attached (*Elieson v. Parker* (1917), 81 J. P. 265; *Hollands v. Williamson* (1920), 83 J. P. 289; and see *Webster v. Terry*, [1914] 1 K. B. 51).

It is to be observed that unless the vehicle is so constructed as to emit no smoke or visible vapour under normal conditions, it will be outside the definition, and will be, in consequence, a locomotive outside the provisions of the Acts of 1896 and 1903 altogether, and subject to all the laws governing ordinary heavy locomotives (see *post*, p. 24).

It is to be observed also that the Act of 1903 contains no definition of "motor cycle," although sect. 3 (5) of the Act refers to motor cycles as distinct from motor cars. In the absence of such a definition it is submitted that the phrase "motor cycle" will include any cycle or tricycle to which there is attached—either permanently or in a detachable way—any mechanical means of propulsion, and will include a vehicle consisting of such a cycle and a car for passenger

carrying attached to it, such as the usual "combination" of motor cycle and sidecar. In practice it may be found a matter of some difficulty to settle where is the dividing line between such vehicles and certain of the lightest types of motor car.

### *Issue of Driving Licences*

The councils of every county, and of every county borough, are directed and can be compelled to issue licences to any duly qualified person who resides in the area of their authority (Act of 1903, s. 3 (2)). No qualifications of knowledge, experience, suitability, or capacity are prescribed, and unless a person is too young, or already holds a licence, or has been declared disqualified, the county authority are bound to grant him a licence.

If the licence is required only to drive a motor cycle (*a*) it can be obtained by any person who is over fourteen years old; but a licence to drive a motor car cannot be obtained unless the applicant is over seventeen years old (*ibid.* s. 4 (5)). Apart from the disqualification of youth, there is the disqualification prescribed by the fourth section of the Act (*ibid.* s. 4 (1) (*b*)). That is to say, an applicant may at some time previous to his application have been brought before a Court of Summary Jurisdiction for some offence under the Motor Car Act; and may by that Court have been declared to be disqualified during a certain length of time from obtaining a licence.

The Act does not give any definition of the words "who resides in that county or county borough," and as many drivers have residences in more than one county a driver is apparently free to choose in which county he applies for a licence; but he must satisfy the county authority to which he applies that he resides in its area.

The fee to be paid on application for a licence is five shillings (*ibid.* s. 3 (2), and Registration and Licensing Order, 1903, Art. XIV), and the licence remains in force for twelve calendar months from the date stated in it to

(a) As to what is a "motor cycle," see above.

have been the date of its commencement. The licence is not given to drive any particular car, and may be used anywhere in the United Kingdom.

A licence to drive a motor car does not, of course, entitle the holder thereof to ply with a car for hire (see *post*, p. 174).

Foreigners who have no residence in the United Kingdom may now obtain licences in the manner provided by the Road Vehicles (International Circulation Permit) Regulations, 1921, s. 8 (IV); see *post*, Chapter X). Or it would seem that they can apply for a local British licence if they choose to do so, under Art. XVI of the Registration and Licensing Order, 1903 (*post*, p. 278), which provides that the county authority *shall* issue these licences to foreign applicants if they are otherwise entitled to them.

### *Form of Licence*

Licences must be in the form prescribed by Schedule VI of the Registration and Licensing Order, 1903 (*post*, p. 285), or in a form to the like effect made under the Motor Car Act, and those who apply for them are required to supply the county authority with certain particulars as to name, address, age, and qualification, specified in Form A to Schedule V of that Order.

### *Loss or Defacement of Licence*

If the licensee loses his licence, or if it becomes defaced, he should apply to the authority which granted it for a duplicate, and the authority must, on being satisfied as to the facts, issue (*b*) a duplicate of the lost or defaced document (whether it be an original licence or renewal) on receipt of one shilling. This duplicate will, of course, bear the same endorsements as the original.

### *Renewal of Licence*

Within a month before the day when a licence expires the holder of it may apply for a new one, or for a renewal of the old. Inasmuch as the provisions of the Act of 1903

(b) R. & L. Order, sect. XVII, *post*, p. 281.

with respect to the grant of a licence apply also to its renewal (c), it must be taken that the authority to *renew* a licence is the council of the county or borough in which the holder of it resides at the time when renewal becomes necessary.

### *Production of Licence*

Drivers must be ready to produce their licences when asked to do so by the police. There are two provisions in the Act of 1903 with regard to the production of licences. The first (d) deals with the production of the licence after the offence of reckless driving has been committed, and will be dealt with in connection with that offence (see *post*, p. 83).

The second (e) provides that a licence must be produced by any person driving a motor car when demanded by a police constable, and that a person failing to produce his licence "shall be liable on summary conviction in respect of each offence to a fine not exceeding five pounds." This section is intended to meet the case of persons who are called upon to show their licences by the police at any time, and is intended to compel drivers, by substantial fines, to take out licences and carry them when driving. If a driver is convicted of not producing the licence when called upon, the Court of Summary Jurisdiction which has convicted him may suspend his licence for such time as the Court thinks fit and disqualify him from obtaining a licence for such period as they may think fit after the expiration of the licence, or if he does not hold a licence may declare him disqualified from obtaining one for a certain period, and when he holds a licence may order the conviction to be endorsed upon it (f).

### *Suspension of Licence*

Power to suspend driving licences is given by sect. 4 of the Motor Car Act, 1903, to any Court before whom a person

(c) Motor Car Act, 1903, sect. 3 (3), *post*, p. 272. These include payment of 5s.

(d) Sect. 1 (2), *post*, p. 272.

(e) Sect. 3, *post*, p. 272.

(f) Motor Car Act, 1903, sect. 4 (1).

is convicted of an offence under the Act, or of any offence in connection with the driving of a motor car, other than a first or second offence consisting solely of exceeding any limit of speed fixed under this Act.

“Any offence in connection with the driving of a motor car” covers any such offence however created. So, to use powerful lights contrary to the Defence of the Realm Regulations (*White v. Jackson* (1915), 31 T. L. R. 505), to use petrol for a motor car contrary to Motor Spirit (Consolidation) and Gas Restriction Order, 1918 (*Simmonds v. Pond* (1918), 35 T. L. R. 187), and failure to have a number-plate illuminated, contrary to Motor Car (Registration and Licensing) Order, 1903 (*Brown v. Crossley* (1911), 27 T. L. R. 194), have all been held to be such offences. It has been held, however, that the offence of obstruction when the obstruction is caused by leaving a motor car on the highway is not an offence “in connection with the driving of a motor car,” and is not, therefore, an offence which renders the driver’s licence liable to suspension or endorsement (*R. v. Lyndon* (1908), 72 J. P. 227; *Ex parte Shackleton*, [1910] 1 K. B. 439). It must also be noted that driving at a dangerous speed is not covered by the exception relating to offences consisting solely of exceeding a limit of speed fixed under the Act, and that the power to suspend or endorse the licence or disqualify the driver therefore arises on the first conviction.

It has been held that “any limit of speed fixed under this Act” is equivalent to “any limit of speed,” and is not confined to such limits as are fixed by the Act. It is not therefore open to the Court on a first or second conviction for exceeding the speed limit in a Royal Park, a limit fixed not by this Act but by Parks Regulation Act, 1872, to suspend or endorse the licence or disqualify the driver, but it is open to the Court to do so after a third conviction for exceeding any such limit however fixed (*R. v. Marsham*, [1907] 2 K. B. 638; *R. v. Plowden*, [1909] 2 K. B. 269).

The same procedure applies and the same power of

suspension is exercisable in respect of any licence issued to a foreigner under Motor Car (International Circulation) Amendment Order, 1921.

### *Disqualification to Obtain Licence*

Under sect. 4 of the Motor Car Act, 1903, power is given to any Court, under the same circumstances as entitles them to suspend a licence (see *supra*), to disqualify the convicted person from obtaining a licence.

This power can be exercised either when the person convicted does not hold a licence, or, where he does hold one, in respect of the period after the suspension of the licence ceases to operate because the period covered by the licence has expired.

There is an appeal to Quarter Sessions against a declaration of disqualification (s. 4 (4)), and the Court may defer the operation of the order pending such appeal, but need not do so.

The order when made operates, unless so deferred, immediately (*Kidner v. Daniels* (1910), 74 J. P. 127). So long as the order is in force, to apply for or obtain a licence is an offence punishable under section 11 of the Act, and any licence so obtained is void (s. 4 (5)).

The same power of disqualification is exercisable in the same way in respect of a foreigner holding a licence under the Motor Car (International Circulation) Amendment Order, 1921.

### *Endorsement of Licence*

Under sect. 4 of the Motor Car Act, 1903, as originally enacted, it was the duty of any Court convicting a driver of an offence under the Act or an offence in connection with the driving of a motor car, other than a first or second offence consisting solely of exceeding any limit of speed fixed under the Act, to endorse particulars of the conviction upon his licence if he held one.

As to the interpretation of the section, see "Suspension of Licence" (*supra*).

Now, however, by reason of the amendments made by the Roads Act, 1920, the endorsement is no longer compulsory, and the Court has the same discretion with regard to it as it has with regard to suspension of the licence and disqualification of the driver from obtaining a fresh licence.

When endorsement is ordered the Court must furnish the authority issuing the licence with a copy of the endorsement. This alteration in the law has done away, to a great extent, with the importance of considering whether an offence is "an offence within the Act."

By Roads Act, 1920, s. 7 (3), it is provided that the holder of an endorsed licence, who has had no fresh endorsement added for a continuous period of three years, may, either on applying for a renewal of the licence or on payment of a fee of five shillings at any time, have issued to him a new licence free from endorsements.

To apply for or obtain a licence without giving particulars of any endorsement which should be put thereon is an offence punishable under section 11 of the Act, and the licence so obtained is void (s. 4 (5)).

The same power of endorsement is exercisable in the same way in respect of a licence issued to a foreigner under Motor Car (International Circulation) Amendment Order, 1921, and in such a case the council to whom the particulars must be sent is the London County Council.

### *Other Offences*

It is an offence against the Act, punishable under section 11, for any person to fail to produce his licence within a reasonable time for endorsement if required to do so by the Court which has convicted him. The prosecution for this offence can be undertaken by whoever was the prosecutor when the conviction which is to be so endorsed was secured.

Lastly, those who employ motor drivers must see that they are properly licensed and see that the licences which their drivers hold are renewed in time. To employ an

unlicensed driver to drive a motor car is an offence under the Act (*g*).

The only other provision with regard to licences which need be noticed here is that the county and borough councils have power to authorise their clerk or any other officer to do any duty or exercise any power of the council for the purpose of giving licences (*h*). A licence or renewal may therefore be signed by the clerk to a county council or by any properly authorised officer (*i*).

### (b) OF PUBLIC VEHICLES

As to the licensing of the drivers of public vehicles, see *post*, Chapter IX.

### (c) OF HEAVY LOCOMOTIVES

The driver of a heavy locomotive does not require a driver's licence. Such a driver is wholly outside the provisions of the Motor Car Act, 1903, requiring a licence for the drivers of light locomotives and motor cars, as to which see *ante*, p. 16.

#### *Heavy Locomotives*

Any mechanically propelled vehicle which exceeds  $7\frac{1}{4}$  tons in weight unladen, or which is used for drawing more than one vehicle, or is used for drawing even one vehicle if the joint unladen weight of the vehicle and the locomotive exceeds  $9\frac{3}{4}$  tons, or, whatever is its weight, is not so constructed that no smoke or visible vapour is emitted from it except from some temporary or accidental cause, is an ordinary or "heavy" locomotive and is outside the class of "light" locomotives or motor cars which are dealt with by the Locomotives on Highways Act, 1896, and the Motor Car Act, 1903 (see Heavy Motor Car Order, 1904; Heavy Motor Car (Amendment) Order, 1921; *Evans v. Nicholl*, [1909] 1 K. B. 779, and *ante*, p. 16).

(*g*) Sect. 3 (1).

(*h*) R. & L. Order, 1903, sect. 20, *post*, p. 282.

(*i*) See, for form, R. & L. Order, 1903, Sched. VI., *post*, p. 285.

*Weight Unladen*

In calculating the unladen weight of a locomotive, water or fuel used for the purposes of propulsion and all loose tools and loose equipment and accumulators (other than boilers) are to be excluded. But the body and parts are to be included, and the heavier body and parts where alternative bodies and parts are used (Roads Act, 1920, s. 7 (6)).

But if a vehicle weighs more than  $7\frac{1}{4}$  tons and is specially constructed so that all or part of the superstructure is a permanent or essentially permanent fixture and the axle-weights do not exceed the maximum axle-weights prescribed under the Motor Car Act, 1903, or any Act amending that Act, the unladen weight of that vehicle shall be deemed to be  $7\frac{1}{4}$  tons (*ibid.*).

**(B) LICENSING OF VEHICLES****(a) GENERALLY**

By the operation of the Finance Act, 1920, the Roads Act, 1920, and the Order in Council and Regulations made thereunder, an entirely new system of licensing has been brought into operation, and all mechanically propelled vehicles used on public roads require to be licensed.

By Roads Act, 1920, s. 8 (1), however, no vehicle used on tram lines, except a tramcar used for the conveyance of passengers, is to be included amongst the vehicles requiring to be so licensed.

This new system has replaced the registration of motor cars provided for by Motor Car Act, 1903, s. 7 (1) (a), and the licensing of locomotives provided for by Locomotives Act, 1898, s. 9, these provisions being repealed by the Roads Act, 1920, s. 20 (3).

The excise licences now required are in addition to any other licences that may be necessary, *e.g.* licences to ply for hire, in the case of a hackney carriage.

Under the new system the issue of the licences and the collection of the excise duties is to be carried out by the

county councils and the councils of county boroughs in the case of all first applications for licences, but renewals can be carried out through the Post Office (Roads Act, 1920, s. 1 (1) ; Road Vehicles (Registration and Licensing) Order, 1921, s. 2 (f), and Road Vehicles (Registration and Licensing) Regulations, 1921).

These duties may be delegated by the councils to such of their officers as they may select, and the council and such selected officers have the same powers, duties and liabilities as the Commissioners of Customs and Excise and their officers have with respect to excise duties and to the issue and cancellation of licences on which excise duties are imposed and other matters under the Acts relating to excise duties and excise licences, and all enactments relating to those duties and to punishments and penalties in connection therewith apply accordingly, except that the power to recover duties by means of distress or commitment under the Revenue Act, 1869, may not be exercised by a council or its officers (Roads Act, 1920, s. 1 (2) ; the Road Vehicles (Registration and Licensing) Order, 1921, s. 2 (a), (b) and (c)).

The council and its selected officers may as regards duties or licences exercise the powers given to the Treasury for the restoration of any forfeiture and the mitigation or remission of any penalty either wholly or in part (Roads Act, 1920, s. 1 (3) ; the Road Vehicles (Registration and Licensing) Order, 1921, s. 2 (e)).

Such selected officers are in the Road Vehicles (Registration and Licensing) Regulations, 1921, called "Local Taxation Officers."

### *Kinds of Licence*

Two kinds of licence are created by the Roads Act, 1920, ordinary licences, relating to single vehicles, and general licences, issued to manufacturers of, dealers in and repairers of, mechanically propelled vehicles ; the general licence may be used for any vehicle, of the kind for which it was issued, which is employed by the holder.

*Application for Licence*

A person desiring to obtain a licence for a vehicle must apply to the appropriate council, upon whichever of the prescribed forms referred to in Schedule I of the Road Vehicles (Registration and Licensing) Regulations, 1921, may be applicable.

The appropriate council will be the council of the county or county borough in which is situated the garage in which the vehicle is ordinarily kept (*ibid.* Arts. 2 and 3); or the council of the county or county borough in which the principal place of business of the applicant is situated or where he has his permanent postal address, in cases where he can satisfy such council that the vehicle is not ordinarily kept in any one area (*ibid.* Art. 3).

The council is not required to issue the licence until satisfied that it is the licence appropriate to the vehicle for which it is sought, and, if the application purports to be the first application made in respect of the vehicle, until satisfied also that no licence has in fact previously been obtained for it (Roads Act, 1920, s. 5).

But if the council is so satisfied and is satisfied that the vehicle is one in respect of which it is authorised to issue a licence, it must, after payment of the appropriate amount of duty, issue a licence in the proper form (Road Vehicles (Registration and Licensing) Regulations, 1921, Art. 13). As to the scale of duties, see *post*, p. 44.

The council at any time before or after the issue of a licence may require the owner of a vehicle licensed or sought to be licensed in reference to unladen weight to furnish a certificate of the weight in the prescribed form, or give him not less than seven days' notice in writing to bring the vehicle to a specified weigh-bridge at a specified time to be weighed in the presence of the officer of the council.

*Period of Licence*

Normally, licences are issued and valid for the calendar year, but ordinary licences for any vehicles other than

tramcars and vehicles on which the annual duty is five shillings may be procured for less periods, under the provisions of the Road Vehicles (Part Year Licensing) Order, 1921 (see *post*, p. 388), and general licences may be procured for any quarter of the calendar year (see *post*, p. 31).

### *Form of the Licence*

Licences must be in the form set out in the first part of the Second Schedule of the Road Vehicles (Registration and Licensing) Regulations, 1921.

The council, before the issue of the licence, must enter upon it the index-mark and registration number of the vehicle, its horse-power, maximum seating capacity or unladen weight (as the case may be) in respect of which duty has been paid, its class, make, and colour, the amount of duty paid, and a stamp or other sufficient mark indicating the name of the authority issuing the licence and the date when the duty was paid.

Where the duty has been paid with reference to seating capacity or unladen weight at the maximum rate, this must be denoted by the insertion of the letters M.A.X. (*ibid.* Art. 13 (2)).

Where the vehicle is a fire-engine or a vehicle kept by a local authority for use for the purposes of the fire-brigade service only, or an ambulance or a road-roller (all of which are exempted from duty by Finance Act, 1920, s. 13 (4)), the word "Nil" shall be inserted in the space provided for recording the amount of duty paid, and the licence be completed otherwise in the ordinary way (*ibid.* Art. 34).

### *Fixing of Licence to Vehicle*

The licence, when issued, must be attached to and carried on the vehicle at all times when the vehicle is in use on a public road, except in the case of tramcars and road-rollers (Road Vehicles (Registration and Licensing) Regulations, 1921, s. 4 (2)).

This must generally be done by the use of a holder

which complies with the specification set out in Part II of the Second Schedule to the Regulations. But where the licence is carried actually upon a glass portion of the vehicle the holder need not be used so long as the licence is so carried as to be weather-proof (Road Vehicles (Registration and Licensing) Regulations, 1921, s. 4 (3) (b)).

The licence card must be placed and carried so as to be clearly visible at all times by daylight to anyone standing at the near side of the vehicle, whether the vehicle is moving or stationary (*ibid.*).

In the case of motor cycles, motor scooters, motor cycles with a trailer or sidecar, tricycles and invalid carriages, the licence may be carried in any conspicuous position on the near side of the vehicle. In the case of all other vehicles it must be so placed as to comply with the detailed instructions set out in Regulation 4 (3) (b).

### *Alteration of Vehicle*

If a licensed vehicle is so altered as to render inaccurate any of the particulars shown on the licence card, the licence must be surrendered to the council, who must, in cases where the alteration has not increased the rate of duty which is payable, forthwith issue a new licence valid for the same period as the surrendered licence without charge (Regulation 6).

In cases where the alteration has been such that a higher rate of duty is payable, the existing licence is thereby avoided, and the owner of the vehicle must apply for a new licence and pay the difference between the amount of duty indicated on the old licence and the rate payable in respect of the altered vehicle (Regulation 7 and Roads Act, 1920, s. 5 (3)).

When a licensed vehicle is broken up, destroyed or sent permanently out of the United Kingdom, the value of the licence will be allowed to the owner upon his taking out a new licence for another vehicle, of a similar class, for the same period for which the previous licence was in force, but

no part of the duty paid for the original licence shall be refunded (Regulation 11 (2)).

### *Loss of Licence*

If a licence has been lost, destroyed or accidentally defaced, the registered owner of the vehicle may apply to the council for the issue of a duplicate, and the council, on being satisfied of the loss, or on having the defaced licence returned, shall issue a duplicate, so marked, on payment of a fee of five shillings, and the duplicate shall have the same effect as the original licence (Regulation 12 (1)).

### *Non-user of Licensed Vehicle*

If the council is satisfied that a licensed vehicle has not in fact been used upon any public road during the currency of the licence, it must refund the duty paid upon the surrender of the licence and registration book (Regulation 12 (2)).

### *Transfer of Licence*

A current licence can be transferred to the new owner of a licensed vehicle by mere delivery, if the proper steps with regard to registration have been taken (Regulation 8).

When a licence so transferred expires, the new owner must then apply for a new licence to the appropriate council, as provided by Regulation 2 (*ibid.*).

The new owner, before he is entitled to use the vehicle on any public road, must notify the council of the area in which the vehicle will ordinarily be kept that the transfer has been made (*ibid.*).

### *Renewal of Licence*

Application for the renewal of a licence for a vehicle, which has not been altered except as notified to the council

and has not passed into a different ownership during the currency of the licence, may be made not more than fourteen days before the licence expires, either to the council or at any Post Office authorised for that purpose by the Postmaster-General, but no renewal may be made at a Post Office later than fourteen days after the licence has expired (Regulation 17).

The application must be made in the form referred to in the First Schedule of the Regulations (*ibid.*).

The expired licence must be surrendered (Regulation 18).

### *General Licences*

General licences may be issued to any manufacturer of or dealer in mechanically propelled vehicles in respect either of all such vehicles or of all motor cycles not exceeding 8 cwts. in weight unladen and vehicles not exceeding 5 cwts. in weight unladen and adapted and to be used for invalids only (Roads Act, 1920, s. 9 (1), and Road Vehicles (Registration and Licensing) Regulations, 1921, Part II, regulation 27) (*k*).

By Finance Act, 1922, s. 15, which came into operation on January 1, 1923, the right to take out general licences is extended to repairers of mechanically propelled vehicles.

Application must be made on the form referred to in the First Schedule of the Regulations to the council of the county or county borough in whose area the applicant has his business premises (*ibid.*).

A general licence covering all vehicles will be issued on payment of duty at the yearly rate of £10, and one limited to motor cycles, etc., on payment of duty at the reduced yearly rate of thirty shillings (Roads Act, 1920, s. 9 (1)).

Such licences covering all vehicles may be taken out for any quarter of the calendar year by payment of thirty per cent. of the full annual duty (*ibid.*).

(*k*) See now R.V. (Trade Licences) Regulations, 1922, *post*, p. 393.

By Finance Act, 1922, s. 15, which came into operation on January 1, 1923, the Minister of Transport is enabled to make two sets of regulations under s. 9 of the Roads Act, 1920, as amended by this section, and provision is made as to the scale of duty to be chargeable if this course is taken (*a*).

If the council refuse the application, the applicant may appeal to the Minister of Transport, who may decide the matter as he thinks fit.

His decision in such a case is not subject to appeal to any Court, and is enforceable by him by writ of mandamus (Roads Act, 1920, s. 9 (3)).

The council must issue to the person or firm to whom a general licence is granted a licence card setting out the name and address of the person or firm, the number of the identification plate allotted, the date of the expiry of the licence, the amount of duty paid, and the serial number of the licence, and this card must bear a date stamp of the office of issue. The council must also issue to the licence-holder a book for recording the user of the licence (*l*).

Such a general licence may not be used for any vehicle unless it is (*a*) on test or trial during or after completion of construction or repairs; or (*b*) proceeding to or from a public weigh-bridge for the purpose of its unladen weight being ascertained, or to or from any place for registration; or (*c*) on trial for the benefit of a prospective purchaser, or proceeding to or from the place where a prospective purchaser intends to keep it; or (*d*) being delivered to or from a manufacturer's or trader's premises, or from such premises to the premises of a purchaser or of another manufacturer or trader; or (*e*) going to or from a workshop to be fitted with a body, painted or repaired; or (*f*) going from the premises of a manufacturer or trader to a railway station or wharf for entraining or shipment, or from a train or ship to such premises; or (*g*) on trials organised by such clubs, societies, or associations as are approved for the purpose by the Minister of Transport; or (*h*) going to or from any

(*l*) See now R.V. (Trade Licences) Regulations, 1922, *post*, p. 393.

place at which it has been or is to be offered for sale (Regulation 29) (*m*).

Where the vehicle is on trial for the benefit of a prospective purchaser, under (*c*) *supra*, such prospective purchaser, if he holds a driving licence, may himself drive the vehicle (*ibid.*).

These licences entitle the holder to use only one vehicle at a time, or one vehicle and the trailer drawn by it (Roads Act, 1920, s. 9 (1) (*b*)). But a manufacturer or trader may take out as many general licences as he desires (*ibid.* s. 9 (1) (*c*)).

Every holder of such a general licence must keep, in the record book issued to him by the Council, an accurate and sufficient record of each occasion upon which a vehicle

(*m*) A certain number of decisions appear to have been given, under the provisions of the former Acts, as to what can be regarded as within the purposes for which a vehicle can be employed under a general licence, but they are not authoritatively reported.

It is stated that W. D. was summoned (at Tower Bridge Police Court, 16th June, 1905, before Rose, M.M.) for driving an unregistered car. The car bore a general mark, but no individual registered number. The car was not new, but the wheels and tyres were so, and the defendant said he was simply testing them. For the defence it was argued that if the manufacturers were only allowed to try cars, once for all, after completion, the benefit given by the Act and that order to manufacturers and dealers would be diminished, and that the words "trial after completion" must mean any *bonâ fide* trial after completion. The learned magistrate dismissed the summons (*Police v. Danby*, M. U. D., 1908, pp. 13, 14).

It is also stated that one Marsten was summoned (at Marylebone Police Court, 7th September, 1905, before Denman, M.M.) for using an unregistered car. He was driving a finished car to which was attached a *chassis* or unfinished car. Both the car and the chassis bore a dealer's general mark. The learned magistrate is said to have held that the finished car should have been registered and borne a special mark, and the user thereof was fined (*Police v. Marsten*, M. U. D., 1908, p. 14).

In another case it is stated that a driver employed by the E. Co. was summoned for driving an unregistered car, and the manager of the company was summoned for "fraudulently" allowing a general mark to be used by the driver. The car in question had been lent by the E. Co. to a customer whilst a car belonging to him was with the Company for repair. The magistrate (Kennedy, M.M.) is said to have held that a dealer's general mark cannot be used in such a case as this, but only in a trial of a car after completion or by an intending purchaser, and to have convicted the driver, but to have dismissed the summons against the manager, for want of proof of fraud (*Police v. Chambers*, M. U. D., 1908, p. 14).

Art. 2 (4) (*b*). It is said that in a case tried at Bow Street Police Court (*Police v. Ridge*, November 1906, M. U. D. (1908), p. 13) a metropolitan magistrate held that it was a question of fact and of degree what was a trial of this kind. There must, he said, be some limit to the period of trial, but in this case he held that a car was *bonâ fide* on trial though it had gone some 4000 miles.

is used on a road in pursuance of the general licence, and the necessary entries must be made before the vehicle is so used (Regulation 30).

This record book must be produced at any reasonable time for the inspection of any police or local taxation officer, and must be kept available for such inspection at the place specified for this purpose in the application for the licence (Regulation 31) (*n*).

Failure to comply with these Regulations is punishable under Roads Act, 1920, s. 12 (4), by fine not exceeding £20 upon summary conviction.

If, in answer to a charge of failing to keep a record of an occasion when a vehicle was so used, the holder of the general licence can show that its use was without his knowledge or authority, he cannot be convicted (*Phelon & Moore v. Keel*, [1914] 3 K. B. 165).

#### OFFENCES IN CONNECTION WITH LICENSING

##### *Using an Unlicensed Vehicle*

If a person uses any vehicle for which no licence is in force, he is liable to an excise penalty of £20, or three times the amount of the duty payable in respect of the vehicle, whichever is the greater (Roads Act, 1920, s. 13 (1)).

The same penalty is applicable if the holder of a general licence uses more vehicles at any one time than he is entitled to do (*ibid.*).

The holder of a licence is not entitled to notice of its expiry, and the fact that no such notice has been given affords no answer to a charge of using an unlicensed vehicle (*Caldwell v. Hague* (1914), 84 L. J. K. B. 543).

Proceedings to recover these penalties may be brought at any time within twelve months from the date of the offence (*ibid.*).

If, in such proceedings, any question arises as to the number of vehicles used, or the character, weight or horse-

(*n*) See now R.V. (Trade Licences) Regulations, 1922, *post*, p. 393.

power of any vehicle, or as to the number of persons seated by it, or as to the purpose for which it has been used, the burden of proof in respect of such matters lies upon the defendant (Roads Act, 1920, s. 13 (3)).

### *Fraudulent Application for a Licence*

If an applicant for a licence in connection with his application makes any declaration or furnishes any particulars which to his knowledge are false or in any material respect misleading, he is liable, upon summary conviction, to a fine not exceeding £50, or to imprisonment for not exceeding six months, with or without hard labour (Roads Act, 1920, s. 13 (2)).

If, in such proceedings, any question arises as to the number of vehicles used, or the character, weight or horsepower of any vehicle, or as to the number of persons seated by it, or as to the purpose for which it has been used, the burden of proof in respect of such matters lies upon the defendant (Roads Act, 1920, s. 13 (3)).

### *Using a Licensed Vehicle for an Unauthorised Purpose*

If a vehicle is licensed solely for a particular purpose, a person using it for any other purpose is liable to an excise penalty equal to three times the difference between the duty paid and the duty chargeable in respect of a licence for a vehicle to be used as this has been used, or £20, whichever is the greater (Roads Act, 1920, s. 8 (3)). (See *R. v. Wood* (1922), 20 L. G. R. 189.)

### *Offences as to Licence itself*

To forge, or fraudulently to alter or use, lend or allow to be used, any licence renders the offender liable to a fine not exceeding £50, or to imprisonment for a term not exceeding six months, with or without hard labour (Roads Act, 1920, s. 13 (4)).

### *Failure to keep Record of Use of General Licence*

See *ante*, p. 33.

*Offences against Regulations*

Any breach of or failure to comply with any Regulations made under the Roads Act, 1920, is by sect. 12 (4) of that Act made an offence punishable, upon summary conviction, by a penalty not exceeding £20. These Regulations (see *post*, p. 361) require that the licence shall be carried on the vehicle, that it shall be exchanged for a new licence if alterations in the vehicle render the particulars upon it inaccurate, that it shall be surrendered to the council when it becomes void, and that, in the case of a general licence, it shall be carried attached to the front plate.

**(b) PUBLIC VEHICLES**

As to the special licences required for vehicles when they are used as hackney or stage carriages, see *post*, Chapter IX.

**(c) REGISTRATION OF VEHICLES**

The registration of mechanically propelled vehicles is now performed in conjunction with the issue of licences for them, as to which see *supra*, p. 25, and is governed by the Roads Act, 1920, and the Order in Council and Regulations relating thereto.

When a licence (other than a general licence) is issued by a council, it is the council's duty, without any further application being made, to register the vehicle in the prescribed manner and to assign to it an index-mark and a number, unless an index-mark and a number have already been assigned to it under the Motor Car Act, 1903, and the Orders made under that Act, and were registered in respect of it on December 31, 1920, in which case that mark and number shall be regarded as having been assigned to it under the Roads Act, 1920, and shall for all purposes attach to it until it is broken up, destroyed or sent permanently out of the United Kingdom (Roads Act, 1920, s. 6 (1), and Road Vehicles (Registration and Licensing) Regulations, 1921, Regulation 5 (1)). The index-marks

assigned under the Act shall be those set out in the Third Schedule of the Regulations (Regulation 20).

### *Registration Book*

When a licence (other than a general licence) is issued, the council must generally issue a registration book to the owner of the vehicle licensed, but in cases where the application for a licence has been made on the forms appropriate where the application relates to over six vehicles of uniform type in the same ownership, no such book shall be issued unless the owner desires to dispose of any of the group of vehicles, when he must apply for a registration book, which the council must then issue (Regulation 5 (1)).

Before issuing the book the council may require to be satisfied by inspection of the vehicle or other evidence that the vehicle in fact accords with the declaration made on applying for the licence (Regulation 15).

The registration book must contain such particulars relative to the vehicle as the Minister of Transport may from time to time direct (*ibid.*).

The registration book must be produced for the inspection of any police officer, officer of H.M. Customs and Excise, or local taxation officer, on demand at any reasonable time (*ibid.*).

It is an offence for any person to deface or mutilate any registration book, or alter or obliterate any entry in it, or to make any entry in it, or to add to any entry except when he is required to do so by the Regulations (Regulation 5 (2)).

If the vehicle is altered so as to affect the registration particulars given by the applicant when applying for a licence, he must forthwith notify this to the council and forward his registration book for correction (Regulation 6).

If a change takes place in the ownership of the vehicle, the registered owner must enter the name of the new owner in the appropriate place in the registration book

and forward the book to the council with which the vehicle is registered (Regulation 8 (1)).

On a change of address the owner must enter his new address in the space provided in the registration book and forward the book to the council by which the vehicle is registered, and the council must note the new address and return the book to him (Regulation 10).

If a registered vehicle is broken up or destroyed or sent permanently out of the United Kingdom, the owner must notify this and return the registration book to the council; or, in the case of a vehicle sent permanently abroad, to the Customs Office at the port of departure (Regulation 11 (1)).

If the registration book is lost, destroyed or accidentally defaced, the owner of the vehicle may, on satisfying the council as to the facts and on giving up the book, if the ground is defacement, obtain a duplicate book, so marked, which shall have the same effect as the original registration book (Regulation 12 (1)).

### *Council's Register*

Every council must keep a register in such form as the Minister of Transport may direct for the registration of mechanically propelled vehicles (Regulation 19).

And the council must supply, free of charge, to any other council or any superior officer of police or constable authorised by him, the registered name and address of the owner of any vehicle registered with them, and a copy of the particulars registered as those shown upon the licence last issued to him, and, on payment of a shilling, to anyone who can show a reasonable cause for requiring the information (Regulation 26).

### **(D) IDENTIFICATION MARKS**

By the Roads Act, 1920, s. 6 (1), it is provided that a mark indicating the registered number of the vehicle and the council with which it is registered shall be fixed on the vehicle itself, or on any other vehicle drawn by it, or on

both, as may be prescribed by the Minister of Transport, and by s. 12 (c) of the Act the Minister is authorised to make regulations prescribing the size, shape, and character of the identification marks or signs to be fixed to vehicles, and the manner in which they are to be displayed and made easily distinguishable both by day and by night.

### *Ordinary Identification Marks*

By the Road Vehicles (Registration and Licensing) Regulations, 1921, Regulation 21, it is provided that the identification mark shall consist of the index-mark and registration number assigned to the vehicle, and shall be exhibited on two plates which, as regards the lettering, numbering, and otherwise, shall conform with the provisions set out in the Fourth Schedule to the Regulations (see *post*, p. 377).

The plates must be fixed one in the front of the vehicle and the other at the back of it, so that every letter and figure on the plate is upright and easily distinguishable—in the case of the front plate, from in front of the vehicle, and, in the case of the back plate, from behind it, except in the case of a motor bicycle or tricycle, when a plate with duplicate faces may be employed as a front plate, if so fixed that the letters and figures are easily distinguishable when the bicycle or tricycle is viewed from either side (Regulation 22).

If another vehicle is attached to the licensed vehicle, either in front of it or behind it, the plate required to be fixed on the front or back of the licensed vehicle, or a duplicate of it, must be fixed to the front or back of the attached vehicle, as the case may be, in the same way as it is required to be fixed to the licensed vehicle (Regulation 23).

By Regulation 24 councils are authorised to supply identification plates for vehicles registered with them and to charge for them.

The rear plate, whether upon the licensed vehicle or upon another vehicle drawn by the licensed vehicle, must be illuminated by reflection, transparency or otherwise

between half an hour after sunset and half an hour before sunrise, if the vehicle is being used on a public highway, by a lamp kept burning for this purpose, except that, in the case of a motor bicycle or tricycle not exceeding three hundredweights in weight unladen, the front plate may, if desired, be so illuminated in place of the rear plate (Regulation 25).

### *Trade Identification Marks (o)*

By Regulation 28 (2), the council granting to a manufacturer or repairer of or a dealer in mechanically propelled vehicles a general licence in respect of the same (as to which see *supra*, p. 31) must, with such licence and free of charge, supply one plate (with a holder for the licence card) for fixing in front and another plate for fixing behind the vehicle which is being driven in pursuance of the licence, and the holder of the licence is also entitled, without charge, to plates appropriate for motor cycles and invalid carriages, if he has taken out a licence for vehicles of every class.

These plates must conform to the specification directed by the Minister of Transport and remain the property of the council, and must be returned to it as soon as the licence lapses (Regulation 28 (3)) (o).

These plates must be carried on the vehicle in the same places and in the same manner as ordinary identification plates are required to be carried, and the licence card must be attached to the front plate at all times when the vehicle is in use on any public road (Regulation 28 (4)) (o).

No vehicle carrying trade identification marks is required to carry any other identification marks or licence (Regulation 32) (o).

## OFFENCES AS TO REGISTRATION AND IDENTIFICATION

### *Supplying False Information*

If any person required to furnish particulars for registration or in connection with a change of registration makes any declaration or furnishes any particulars which are to

(o) See now R. V. (Trade Licences) Regulations, 1922, *post*, p. 393.

his knowledge false or in any material respect misleading, he is liable upon summary conviction to a penalty not exceeding £50 or to imprisonment for a term not exceeding six months, with or without hard labour (Roads Act, 1920, s. 13 (2)).

If in such proceedings any question arises as to the number of vehicles used, or the character, weight or horsepower of a vehicle, or as to the number of persons seated by a vehicle, or as to the purpose for which any vehicle has been used, the burden of proof is on the defendant (*ibid.* s. 13 (3)).

### *Offences as to Registration Book*

Forging or fraudulently altering or using, or lending or allowing to be used, any registration book is an offence punishable on summary conviction by a fine not exceeding £50 or imprisonment for a term not exceeding six months, with or without hard labour (Roads Act, 1920, s. 13 (4)).

And to deface or mutilate a registration book or to alter or obliterate any entry in it, or to make any entry in or addition to such book except as required by law, is an offence against Road Vehicles (Registration and Licensing) Regulations, 1921, Regulation 5 (2), and punishable by a fine not exceeding £20 under Roads Act, 1920, s. 12 (4).

All offences against the Regulations made under the Act are punishable by a fine not exceeding £20 under Roads Act, 1920. These Regulations require that the registration book shall be produced for inspection by a police or excise officer if requested and shall be forwarded to the council if alterations to the vehicle affect the registration particulars, or if there is a change of ownership of the vehicle, with the necessary entries giving the name and address of the new owner, or if the owner changes his address, or if the vehicle is broken up, destroyed or sent permanently out of the United Kingdom.

### *Offences as to Registration Plates*

Failure to carry the required identification plates, or carrying plates not in conformity with the Regulations, or

not carrying the plates in the manner therein prescribed, or failure to illuminate them as required, are all offences against the Regulations, and under Roads Act, 1920, s. 12 (4) are punishable by a fine not exceeding £20.

Under Roads Act, 1920, s. 6 (2), if the required plates are not carried or are in any way obscured or rendered or allowed to become not easily distinguishable, the driver of the vehicle is, for each offence, liable on summary conviction to a penalty for the first offence not exceeding £20, and for any subsequent offence not exceeding £50.

But by the same section it is provided that nobody shall be convicted of obscuring a plate or rendering or allowing it to become not easily distinguishable if he proves that he has taken all steps reasonably practicable to prevent this, and that nobody shall be convicted under the section if he proves that he has not had any reasonable opportunity of registering the vehicle and that it was being driven on a public road for the purpose of being so registered.

Where plates are supplied by a council which has issued a general licence, it is an offence against the Regulations not to return the plates when the licence expires, and not to fix the plates as required to any vehicle used in pursuance of the licence, and such offences are punishable by a fine not exceeding £20, under Roads Act, 1920, s. 12 (4).

## CHAPTER III

### TAXATION

(A) OF MOTOR CARS AND LOCOMOTIVES.	(D) APPLICATION OF DUTIES.
(B) OF MALE SERVANTS.	LICENCE FEES, AND
(C) OF HACKNEY AND STAGE CARRIAGES.	PENALTIES.

#### (A) OF MOTOR CARS AND LOCOMOTIVES

THE main taxation which the owner of a motor car or locomotive has as such directly to bear consists of :

(1) The duty on licences for mechanically propelled vehicles imposed by Finance Act, 1920, as amended by the Roads Act, 1920, the Finance Act, 1921, and, as from January 1, 1923, by the Finance Act, 1922.

(2) The duty of excise on male servants under the Customs and Inland Revenue Act, 1869 and 1876, and sect. 13 of the Motor Car Act, 1903.

(3) The fees payable for licences to drive.

By the Finance Acts referred to above scales of duty are laid down which are payable in respect of all mechanical vehicles with the exception of certain vehicles exempted from these duties by Statute.

By the Roads Act, 1920, s. 1, these duties are directed to be levied by the councils on the issue by them of licences for the vehicles in respect of which the duties are due.

And by sect. 13 of that Act any person using a vehicle for which the appropriate licence is not in force is made liable to an excise penalty of £20 or three times the duty payable in respect of the vehicle, whichever is the greater.

By the Finance Act, 1920, s. 13 (4), fire-engines, vehicles kept by a local authority while they are used for the purposes of the fire-brigade service, ambulances and road-rollers are exempted from the duties.

By Roads Act, 1920, s. 8 (1), all vehicles used on tram-lines except tramcars used for the conveyance of passengers were also excepted.

And by Regulation 34 of the Road Vehicles (Registration and Licensing) Regulations, 1921 (see *post*, p. 368), the exemption from duty appears to be extended to any motor fire-engine or fire-appliance and to any motor vehicle kept for use exclusively in connection with the extinction of fire by whomsoever it is kept, and not to be confined to those kept by a local authority.

By the Finance Act, 1920, s. 13, all excise duties chargeable at the commencement of that Act in respect of any vehicle chargeable with duty as a mechanically propelled vehicle under that section were declared to cease to be chargeable as from January 1, 1921, and from and after that date duty was made chargeable at the rates specified in the Second Schedule to that Act.

The basis of duty is, in the case of cycles, motor scooters, tricycles and invalid carriages, weight, with an addition in the case of cycles used for drawing a trailer or sidecar; in the case of hackney carriages, seating capacity, exclusive of the driver, with a flat rate for tramcars; in the case of road locomotives and agricultural engines, weight, with an exception in favour of certain engines and tractors used solely in agriculture; in the case of vehicles used solely for the carriage of goods in the course of trade, weight, and in all other cases horse-power.

### *Agricultural Purposes*

As a special scale of duty is fixed for heavy locomotives used "in connection with agriculture," it becomes important to consider how widely the phrase may be interpreted.

By the Locomotives Act, 1898, s. 9, repealed by the Act of 1920, locomotives "used solely for threshing or ploughing or for any other agricultural purpose," or "employed solely for the purposes of farms" belonging to or occupied by the owners of the locomotive, were exempt from the necessity

of being licensed, and a number of cases were decided as to what locomotives were so exempted. The question appears to be one of fact in each particular set of circumstances, and the Courts will have regard to the fact that the Legislature intended to ease the burden of agriculturalists and will recognise that agriculture can benefit as much by what is done for a farmer by others as by what the farmer himself performs. The wording of the Act of 1920 being different, the cases under the former Act can give only an approximate guide to interpretation, but it is submitted that there is no great difference in meaning between "in connection with agriculture" and "for any agricultural purpose," and that, if anything, the new wording is somewhat more extensive than the old. The principal cases under the former Act were *Jesse v. Hales* (1889), 37 W. R. 557; *Murch v. Baker* (1891), 55 J. P. 583; *Ellis & Co. v. Hulse* (1889), 23 Q. B. D. 24; *Hoddell v. Parker*, [1910] 2 K. B. 323; *London County Council v. Lee* (1914), 30 T. L. R. 525; *Cole Brothers v. Harrop* (1915), 13 L. G. R. 1223; *Dobson v. Jennings*, [1920] 1 K. B. 243; and *Williams v. Morgan* (1920), 125 L. T. 543, *R. v. Freke* (1856), 5 E. & B. 944, and *Foster v. Tucker* (1870), L. R. 5 Q. B. 224, may also be referred to.

It is to be observed that by Roads Act, 1920, s. 13 (3), where any question arises as to the purpose for which any vehicle has been used or as to its weight, the burden of proof is thrown upon the defendant, who must justify what has occurred.

### *Vehicles Used for Trade*

For this purpose it is provided by Roads Act, 1920, s. 8 (2), that a vehicle shall not be deemed to be used otherwise than solely for the conveyance of goods in the course of trade because it is used to convey employees of the trader in the course of their employment.

It must be noted that by Roads Act, 1920, s. 8 (4), it is provided that where a cycle, tricycle or invalid carriage is a hackney carriage it shall be assessed as a cycle, tricycle or invalid carriage, and not as a hackney carriage.

*Weight*

In all cases where weight is the basis, it is the weight unladen, and shall be taken to be the weight of the vehicle inclusive of the body and all parts (the heavier being taken where alternative bodies or parts are used) which are necessary to or are ordinarily used with the vehicle when working on the road, but exclusive of the weight of water, fuel or accumulators (other than boilers) used for the purpose of propulsion and of loose tools or loose equipment. Provided that, in the case of a vehicle weighing more than seven and a quarter tons, which is specially constructed so that all or part of the superstructure is a permanent or essentially permanent fixture, and the axle-weights of which do not exceed the maximum axle-weights prescribed under the Motor Car Act, 1903, or any Act amending it, the unladen weight of such vehicle shall be taken to be seven and a quarter tons (Roads Act, 1920, s. 8 (5) and s. 7 (6)).

If the heavy locomotive is a motor ambulance, motor fire-engine or fire appliance, or a road-roller, in respect of which no duty is payable, it is still necessary to obtain a licence, and this will be issued in the ordinary way, with the word "Nil" entered in the space provided for indicating the amount of duty paid (Road Vehicles (Registration and Licensing) Regulations, 1921, Art. 34 (11)).

In the case of a road-roller or a tramcar the licence is not required to be attached to and carried on the vehicle (*ibid.* Art. 4 (2)).

*Use for Other Purposes*

If a licence is obtained to use a locomotive for certain purposes—*e.g.* for agriculture or as a road-roller—to use it for any other purpose, a licence for which could only be obtained by the payment of duty at a higher rate, is an offence punishable by a fine of £20 or three times the difference between the two rates of duty, whichever is the greater (Roads Act, 1920, s. 8 (3)). See also Finance Act, 1922, s. 14.

*Horse-power*

Where the basis is horse-power, the horse-power of any vehicle which derives its power wholly from an internal combustion engine worked by a cylinder or cylinders shall be taken to be the horse-power attributable to that cylinder or the sum of the horse-powers attributable to those cylinders (Registration and Licensing Regulations, 1921, Art. 39 (1)).

The horse-power attributable to any cylinder of an internal combustion engine shall be deemed to be equal to the square of the internal diameter of the cylinder measured in inches divided by 2.5 if the cylinder has a single piston, or by 1.6 if it has two pistons (*ibid.* Art. 39 (2)).

Where the vehicle derives its power wholly from a steam-engine, its horse-power shall be deemed to be one horse-power for every three square feet of the effective heating surface of the boiler, and the effective heating surface shall be taken to be, in the case of a boiler with horizontal or approximately horizontal tubes, the whole of that surface of the tubes which is exposed to the flame or hot gases, and, in the case of a boiler with vertical or approximately vertical tubes, half of that surface of the tubes which is so exposed (*ibid.* Art. 39 (3)).

Any vehicle deriving its motive power from an electric motor or motors shall be deemed to be of six horse-power (*ibid.* Art. 39 (4)).

In measuring cylinders and boilers and in calculating horse-power, fractions of inches, feet, or units of horse-power are to be taken into account, but in the final calculation of horse-power a resultant fraction of less than one-tenth of a unit of horse-power is to be omitted (*ibid.* Art. 39 (5)).

If by reason of exceptional design or construction the horse-power as calculated on the basis set out above is substantially less than the average power which the engine would develop in continuous use on the road if there were no restriction on speed other than that imposed by the vehicle itself, then such average power shall be taken as the horse-power of the vehicle (*ibid.* Art. 39 (6)).

*Reduction in Duty for Old Engines*

By virtue of Schedule II of the Finance Act, 1920, and Regulation 9 of the Road Vehicles (Registration and Licensing) Regulations, 1921, anyone who has paid duty on the basis of horse-power, in respect of any vehicle the engine of which was constructed before January 1, 1913, is entitled, on satisfying the authority charged with levying the duty of these facts, to recover a quarter of the duty so paid.

**(B) OF MALE SERVANTS**

In addition to paying the excise duties on his motor car, the motor owner, if he employs a driver, must also pay an excise duty of 15s. for that driver. Sect. 13 of the Motor Car Act, 1903, provides this by saying that sect. 19 (3) of the Revenue Act of 1869, as amended by the Revenue Act, 1876, shall be construed as if it included "a person employed to drive a motor car." The Revenue Act of 1869 imposed an excise duty of 15s. per annum on male servants (a), and defined "male servant" (b). To this definition "person employed to drive a motor car" must now be added; but it must be remembered that the amending Act of 1876 (c) provides that a servant who, being *bond fide* employed in any capacity other than those specified in the definition clause in the Act of 1869, is occasionally or partially employed in any of the capacities so specified, need not pay the duty; and a person, even though he is usually employed as a driver somewhere else, is not subject to the duty if he "has been *bond fide* engaged to serve his employer for a portion only of each day and

(a) It has not been settled how long a servant must be employed in order that his employer may be liable to pay excise duty for him. In *Spencer v. Spencer* (1871), 23 L. T. N. S. 873, duty was enforced in the case of waiters at a seaside hotel who were not permanent even in the summer, but were sometimes employed "for weeks together" by the appellant taxpayer. It is evidently a question of fact what is the employment which makes an employer liable. In disputed cases the burden is placed on the defendant by sect. 27 of the Revenue Act of 1869.

(b) 32 & 33 Vict. c. 14, s. 19 (3).

(c) Customs and Inland Revenue Act (1876), 39 & 40 Vict. c. 16, sect. 5. See note (d) below.

does not reside in his employer's house." It appears that this provision exempts an employer who hires a male servant to come daily for a part of a day and drive his employer's car from liability to take out a servant's excise licence. By Finance Act, 1921, s. 10 (1), the definition is further limited by exempting from it any person who would otherwise fall within it who is not also employed in "a personal domestic or menial capacity." An apprentice serving a master and learning a trade or art is not *prima facie* a "male servant" within the meaning of the Revenue Act of 1869 (*d*).

By the Revenue Act of 1869, s. 19 (4), it is provided that where a servant for whom a licence is required is furnished on hire the person so furnishing the servant shall be deemed his employer and so be liable to obtain the requisite licence.

Licences taken out for male servants expire on the 31st December in each year (*e*), and must be renewed before the 1st February next following, or within twenty-one days after those who must take them out "first" "employ" the "servant" (*f*). Whenever a person has declared his liability to take out licences under s. 22 of the Act of 1869, he must make an additional declaration and pay such additional duties as he may be liable to within twenty-one days of the commencement of his fresh liability (*g*).

The Commissioners of Inland Revenue (now the county councils) may by special notice demand of any person that he make a declaration of his liabilities under the Act: and persons who neglect or refuse to comply with the demand may be fined (*h*). Penalties are also imposed (*i*) on persons who employ male servants without a licence: and provision is made in the Act (*k*) for the recovery of unpaid duties.

(*d*) *Horan v. Hayhoe* (1904), 1 K. B. 288. See also, as to male servants in two capacities, *Yelland v. Vincent* (1883), 47 J. P. 230; *Yelland v. Winter* (1885), 53 L. T. 912; *Helsby v. Wattle* (1895), 59 J. P. 309; *Schulze v. Steel* (1890), 27 Sc. L. R. 636.

(*e*) 32 & 33 Vict. c. 14, s. 18.

(*f*) *Ibid.* sects. 22 and 23.

(*g*) *Ibid.* sect. 23.

(*h*) £20 in addition to the duties proved due. *Ibid.* sects. 24, 25.

(*i*) By sect. 30 of the Act.

(*k*) *Ibid.* sect. 30.

**(C) OF HACKNEY AND STAGE CARRIAGES**

The scale of duty for hackney carriages is set out in the Second Schedule to the Finance Act, 1920, and these duties are payable upon licence in precisely the same manner as the duties due in respect of other mechanically propelled vehicles.

The definition of hackney carriage adopted for this purpose is that contained in the Customs and Inland Revenue Act, 1888, s. 4, namely, any carriage standing or plying for hire, and the definition includes any carriage let for hire by a coachmaker or other person whose trade or business it is to sell or let out carriages if such carriage is let for a period of less than three months. It should be observed that by s. 13 of the Finance Act, 1920, no vehicle used upon tram-lines, except a tramcar used for the carriage of passengers, falls within the provisions of this Schedule.

By s. 11 (2) of the Roads Act, 1920, it is provided that where a licence has been taken out for a hackney carriage as seating not more than a certain number of persons, to use it on any occasion to seat more than that number of persons is an offence, rendering the person keeping the vehicle liable to an excise penalty, equal to three times the difference between the duty paid and the duty payable upon a licence for a hackney carriage seating the larger number of passengers.

And by subsection (3) of the same section a rebate of duty may be allowed to the proprietor of a fleet of not less than twelve vehicles of a similar type, all used as hackney carriages, in respect of a vehicle which is substituted for one of the fleet which has been either destroyed or withdrawn permanently from use as a hackney carriage, if the licence for the withdrawn vehicle is cancelled.

Every vehicle chargeable with duty as a hackney carriage must, by s. 11 (1) of the Roads Act, 1920, have exhibited upon it, in conjunction with the registration plate, a distinctive sign indicating that it is a hackney carriage and showing the number of persons which it seats.

The dimensions, form and position of this sign are

prescribed by Art. 33 of the Road Vehicles (Registration and Licensing) Regulations, 1921, and the 5th Schedule to those Regulations (see *post*, p. 378). By this Article it is provided, however, that if the vehicle is temporarily adapted for and used solely for the conveyance of goods in the course of trade the sign need not be displayed or carried when the vehicle is so adapted and is being so used.

#### **(D) APPLICATION OF DUTIES, LICENCE FEES AND PENALTIES**

By the Roads Act, 1920, s. 1 (4), it is provided that the duties levied by the councils shall be paid into the Exchequer as directed by Order in Council, and by s. 7 (7) of that Act it is provided that all sums received by councils by way of fees for licences granted under the Motor Car Act, 1903, s. 3. and all penalties recovered in respect of offences under the Motor Car Acts, 1896 and 1903, shall be similarly dealt with, and by s. 13 (5) of the Act all penalties and forfeitures recovered under the Roads Act, 1920, shall be similarly dealt with.

By the Road Vehicles (Registration and Licensing) Order, 1921, s. 4 (1), the councils are directed to pay these sums to the credit of a "Motor Tax Account" to be opened in the name of the Minister of Transport at the Bank used by the council, and the Minister is authorised to transfer the sums standing to such account from time to time to a "Motor Tax Account" at the Bank of England.

By s. 4 (3) of the Order the Postmaster-General is required to pay into this account at the Bank of England all duties received by him in respect of licences for carriages and vehicles issued at the Post Offices, and by s. 4 (4) provision is made for penalties and forfeitures recovered in Courts of Summary Jurisdiction to be paid into the account also.

By s. (4) (5) provision is made for the sums standing to the credit of this "Motor Tax Account" at the Bank of England to be periodically transferred to the Exchequer Account.

By the Roads Act, 1920, s. 2, it is provided that a sum equal to the amount so paid into the Exchequer shall be issued out of the Consolidated Fund which, after certain sums have been paid out of it into Local Taxation Accounts, shall be paid into the Road Fund.

### *Road Fund*

The Road Fund, established by the Roads Act, 1920, s. 3, is under the control and management of the Minister of Transport.

Into this Fund were merged all moneys and investments standing to the credit of the road improvement grant at the date of the coming into operation of the Roads Act, and into it the Minister must pay any sums received by him under Part II of the Development and Road Improvement Funds Act, 1909.

By s. 3 (4) of the Act there must be paid out of the Road Fund, yearly, certain expenses and salaries, and then the balance must be applied by the Minister for the purposes of Part II of the Development and Road Improvement Funds Act, 1909, as amended by the Roads Act, 1920, provided that the sums applied towards the construction of new roads or the acquisition of land or in respect of any loans raised for any such purpose must not in any year exceed one-third of the estimated receipts of the Fund in that year after deducting the estimated amount of certain sums to be paid out of the Fund.

It is the duty of the Minister to have accounts relating to the Fund prepared, and these when audited by the Comptroller and Auditor-General must be laid before Parliament, and also an annual report by the Minister of his proceedings under this Act.

By the amendments of the Development Act, 1909, effected by the Roads Act, 1920, the Road Board set up by the former Act is abolished and replaced by the Minister of Transport. For other amendments, see *post*, p. 308.

Under Part II of the Act of 1909, as so amended, the Minister has power, with the approval of the Treasury, to

construct and maintain new roads, to contribute to the maintenance of certain roads constructed by highway authorities, and to make advances to highway authorities. For this purpose the word "road" includes bridges, viaducts, subways, road-ferries and footways. The detailed provisions of the Act do not fall within the scope of such a book as this, but the subject is one of great interest to all connected with the use of highways, and the owners of locomotives and motor cars are deeply concerned to see that the monies collected from them are wisely expended in improving the means of communication upon which they rely.

## CHAPTER IV

### MOTOR CARS AND LOCOMOTIVES ON HIGHWAYS

- (A) RIGHTS AND DUTIES GENERALLY.
  - (a) Nuisance.
  - (b) Negligence.
- (B) STATUTORY OFFENCES.
  - (a) As to Equipment.
  - (b) Failure to Display Licence for Vehicle.
  - (c) Failure to Display Registration Plates.
  - (d) Offences as to Lighting.
  - (e) Exceeding the Speed Limit.
    - (1) With Motor Car or Light Locomotive.
    - (2) With Heavy Locomotive.
    - (3) With Heavy Motor Car.
  - (f) Unlawful and Improper Driving.
    - (1) Driving recklessly, negligently, or to the Public Danger.
    - (2) Driving to the Common Danger.
    - (3) Furious Driving.
    - (4) Evidence of Improper Driving and Identification.
    - (5) Liability to Arrest.
    - (6) Obligation of Driver to give Name and Address.
    - (7) Obligation of Owner to supply Information.
  - (g) Failure to stop after Accident.
  - (h) Failure to produce Driving Licence on Demand.
  - (i) Obstruction.
  - (j) Riding or Driving on the Footpath.
  - (k) Offences under Motor Car (Use and Construction) Order, 1904, and Heavy Motor Car Order, 1904, as to—
    - (1) Position of Driver.
    - (2) Giving Warning.
    - (3) Use of Silencer.
    - (4) Reversing.
    - (5) Leaving Car.
  - (l) Offences with Heavy Locomotives, as to—
    - (1) Attendance.
    - (2) Use of Trailers.
    - (3) Weight of Trailers.
    - (4) Affixing Tare of Trailer.
    - (5) Weighing Trailers.
    - (6) Weighing Locomotives.
    - (7) Passing other Traffic.
    - (8) Use of Whistle.
    - (9) Opening Cylinder-taps.
    - (10) Blowing-off.
    - (11) Stopping for Horses.
  - (m) Liability of Owner and Driver for Offences with Heavy Locomotives.

#### (A) RIGHTS AND DUTIES GENERALLY

THE rights and duties of the driver and the owner of a motor car or locomotive, when it is upon or being driven upon the highway, are in general the same as those of other users

of the highway, with the added duty of compliance with the statutory requirements as to construction, equipment and control, and with the special obligations and restrictions imposed by statute upon such vehicles.

These general rights and duties comprise the right to make use of the highway, in any reasonable manner, in common with the other users and with due regard to their convenience, and the duty to obey the rule of the road, to avoid anything which may amount to a public or private nuisance, and to exercise a proper degree of care.

#### (a) NUISANCE

Unreasonable use of the highway which causes inconvenience or damage to others may amount to a public or private nuisance, and may found an indictment or an action for damages or be restrainable by injunction, as the case may be.

To make use of a motor car or a locomotive upon a highway is not of itself a nuisance (*A.-G. v. Scott*, [1905] 2 K. B. 160), and whether in any particular case what has been done amounts to an indictable or actionable nuisance is a question of fact (*Jeffery v. St. Pancras Vestry* (1894), 63 L. J. Q. B. 618).

Such a nuisance may arise in many ways.

To use upon the highway a vehicle so unusually heavy or so removed from the ordinary in other respects that damage is caused to the highway may amount to a nuisance (*Egerly's Case* (1641), 3 Salk. 183; *A.-G. v. Scott*, [1905] 2 K. B. 160; and *Cavan County Council v. Kane Brothers*, [1910] 2 Ir. R. 644).

This class of case is quite distinct from those cases in which a legitimate user of the highway may give rise to a claim in respect of excessive weight or extraordinary traffic, under the provisions of the Highways and Locomotives Amendment Act, 1878, s. 23, as amended by the Locomotives Act, 1898, as to which see *post*, p. 143.

Again, to use an engine which emits sparks may amount

to a nuisance (*Jones v. Festiniog Railway Co.* (1868), L. R. 3 Q. B. 733; *Powell v. Fall* (1880), 5 Q. B. D. 597; and *Gunter v. James* (1908), 72 J. P. 448).

And to repair vehicles upon the highway, beyond what may be necessary to deal with a breakdown and render the vehicle capable of being removed for repair to a more suitable place, may be a nuisance (*The Original Hartlepool Collieries Co. v. Gibb* (1877), 5 Ch. D. 713; *Chapman v. Rawlings* (1909), 26 T. L. R. 15; and *Robinson v. London General Omnibus Co., Ltd.* (1910), 26 T. L. R. 233).

For a vehicle to wait upon the highway for an unreasonable time to pick up passengers may amount to a nuisance (*R. v. Cross* (1812), 3 Camp. 224; *Jeffery v. St. Pancras Vestry* (1894), 63 L. J. Q. B. 618; and *Robinson v. London General Omnibus Co., Ltd.* (*supra*)).

So, also, it may amount to a nuisance if the proprietor of premises, whether they be a shop or a coach office, or a garage or other business or private premises, makes use of his right of access to and from the highway in a manner which is unreasonable in point either of time or of amount (*R. v. Russell* (1805), 6 East, 427; *Benjamin v. Storr* (1874), L. R. 9 C. P. 400; *R. v. Jones* (1812), 3 Camp. 230; *Original Hartlepool Collieries Co. v. Gibb* (1877), 5 Ch. D. 713; *Fritz v. Hobson* (1880), 14 Ch. D. 542; *A.-G. v. Brighton Co-operative Supply Association*, [1900] 1 Ch. 276; *A.-G. v. W. H. Smith & Son* (1910), 26 T. L. R. 482).

What is reasonable use, in such cases, and what goes beyond it are questions of fact in all the circumstances of each case (*Original Hartlepool Collieries Co. v. Gibb* (*supra*); *A.-G. v. Brighton Co-operative Supply Association* (*supra*); *A.-G. v. W. H. Smith & Son* (*supra*)). If alternative routes of approach are available there is no absolute right exclusively to use the most convenient without regard being had to the convenience of the neighbours (*Fritz v. Hobson* (*supra*)).

Again, it may amount to a nuisance to use on a highway vehicles or engines calculated to frighten horses of ordinary

nerve and courage (*Watkins v. Reddin* (1861), 2 F. & F. 629; *Galer v. Rawson* (1889), 6 T. L. R. 17; and *Bantwick v. Rogers* (1891), 7 T. L. R. 542).

It is evident that the standard of the ordinary nerve and courage to be expected in a horse will be different now from what it may have been when mechanical traction was a novelty, and the question is one of fact in each case.

In the case of *Jeffery v. St. Pancras Vestry* (1894), 63 L. J. Q. B. 618, Collins, J., suggested that "if a person has his carriage constructed and painted in such a manner as to be very conspicuous indeed, it may then become a nuisance," and it is possible that such a question might arise in connection with the polished metal or other conspicuous bodies now frequently fitted to motor cars.

In the comparatively early days of motor omnibuses, the question was several times raised whether their tendency to skid on greasy roads, and the impossibility of controlling them if they did so, rendered it a nuisance to put such a vehicle upon the highway (*Gibbons v. Vanguard Motorbus Co., Ltd.* (1908), 25 T. L. R. 13; *Wing v. London General Omnibus Co., Ltd.*, [1909] 2 K. B. 652; and *Parker v. London General Omnibus Co., Ltd.* (1909), 26 T. L. R. 18).

So far as motor omnibuses are concerned, subsequent improvements appear to have made the question of small practical importance, but it is possible that similar questions may arise out of new developments in the future.

To put upon the highway a vehicle calculated to do damage to adjacent property may constitute a nuisance (*Powell v. Fall* (1880), 5 Q. B. D. 597; *Gunter v. James* (1908), 72 J. P. 448; and *Hutchins v. Maunder* (1920), 37 T. L. R. 72), and so far as such vehicles are inherently dangerous their owners put them upon the road at their peril (*Gunter v. James* (*supra*)). In a number of cases damages have been recovered by the owners of pipes, lawfully laid under the highway and at such depth as to be safe from injury by such traffic as was ordinary on the

highway at the time when they were so laid, in respect of the breakage of and injury to the pipes by heavy traffic passing along the highway (*Gas Light & Coke Company v. Vestry of St. Mary Abbott, Kensington* (1885), 15 Q. B. D. 1; *Gas Light & Coke Company v. Vestry of St. George's, Hanover Square* (1887), 3 T. L. R. 581; *Alliance & Dublin Consumers Gas Co. v. Dublin County Council*, [1901] 1 I. R. 492; *Armagh Union v. Bell*, [1900] 2 Ir. R. 371; and *Mayor of Chichester v. Foster*, [1906] 1 K. B. 167).

And in certain circumstances an injunction can be obtained in such a case (*Gas Light & Coke Company v. Vestry of St. Mary Abbott, Kensington* (*supra*)).

In cases where the fact of nuisance can be established, no answer or defence is afforded by the fact that the owners of the vehicle have carried out all the statutory requirements as to its construction, have obtained the necessary licences, and paid the necessary taxation in respect of it, and have not been in any way negligent in its use; nor is it any defence or answer that the work done is work of public utility and advantage (*Jones v. Festiniog Railway Co.* (1868), L. R. 3 Q. B. 733; *Powell v. Fall* (1880), 5 Q. B. D. 597; *Gas Light & Coke Company v. Vestry of St. Mary Abbott, Kensington* (*supra*); *Armagh Union v. Bell* (*supra*); *Mayor of Chichester v. Foster*, [1906] 1 K. B. 167).

How far it may be an answer to an indictment or an action for nuisance, to show that what resulted so resulted, wholly or in part, from the neglect of the highway authority to put and maintain the highway in a proper state of repair, must depend upon the facts in each case, but in *A.-G. v. Scott*, [1905] 2 K. B. 161, the Court declined to restrain the use of an engine which was alleged to be a public nuisance, on the ground that the condition of the road was primarily due to the failure of the authority to maintain the road in a fit condition to bear the traffic which ought to be expected upon it. See also *R. v. High Halden* (1859), 1 F. & F. 678; and *Hemsworth Rural Council v. Micklethwaite* (1904), 2 L. G. R. 1084.

It should be noted that by sect. 6 of the Locomotive Act, 1865, special provision is made to enable locomotives in use for ploughing to work near highroads if a person is stationed in the road to signal for the locomotive to stop work when necessary and to assist horses and horse-drawn traffic, but the provision will not justify such working as will amount to a nuisance.

### (b) NEGLIGENCE

We may commence our brief survey of the topic of negligence by quoting the *dictum* of Lord Denman, C.J., in *Boss v. Litton* (1832), 5 Car. & P. 407, 409. "All persons," he said, "paralytic as well as others, have a right to walk on the road and are entitled to the exercise of reasonable care on the part of persons driving carriages upon it." In spite of the exercise of reasonable care collisions may occur, and, in times when the streets or highways are crowded, probably must occur, for which no one is responsible. But it is the duty of all persons whether walking on foot or driving in a street or on a road to use proper care in order to avoid them, and the owner of a vehicle is liable for damage caused by his negligence. This liability is subject to the ordinary law as to negligence and contributory negligence, which it is not within the scope of this work generally to discuss. But it would seem to be convenient here to deal in brief outline with certain aspects of this topic which especially apply to mechanically propelled vehicles and to hackney carriages.

As users of the highway the first duty of owners and drivers of mechanically propelled vehicles, apart altogether from the duties thrown upon them by statute, is to observe the rule of the road, and it is the neglect of this duty that is the most common form of negligence for which it is sought to make them liable.

### *Rule of the Road*

The rule of the road in England, so far as it can properly be described as a rule, is that vehicles must keep to the left

of the road and pass other traffic which they are overtaking on the right or off side of the traffic overtaken.

Failure to keep to the left or near side of the road when meeting other traffic is an offence under the Highway Act, 1835, s. 78, punishable if the driver be the owner of the vehicle by a fine of £10, or if he be not by a fine of £5, or in default by imprisonment not exceeding six weeks with hard labour.

The "left of the road" does not mean more than that part of the road which is on the left of the centre, and cannot be narrowed down to mean the extreme left-hand side (*Bolton v. Everett* (1911), 75 J. P. 534; *Sleith v. Godfrey* (1920), 90 L. J. K. B. 193).

The rule is a matter of ancient custom, and no certain explanation can be offered for it being the reverse of that prevailing in France, Germany and the United States of America, which causes no inconsiderable difficulty in the case of foreign touring and when vehicles designed, especially as regards steering, for use under one rule are taken to places where the reverse rule prevails.

It has been suggested that the English rule resulted from the coachman desiring to have his whip, which he carries in his right hand, free for use, which he could not have in the very narrow streets if he drove on the right, and that the reverse rule resulted from led horses being naturally led on the right of the road, so that the leader could lead with his right hand and be between his beast and oncoming traffic. But it is difficult, even if this is so, to account for the retention of the rule, most convenient only for packhorses, by the greater portion of the civilised world.

The rule, so far as traffic meeting is concerned, is merely, apart from the Highway Act, 1835, s. 78, one of convenience, and as such the Courts have been accustomed to regard it, and not as an inflexible rule to be adhered to regardless of the position of other traffic and of what was requisite to avoid danger. On a clear highway there is no reason why a driver should not take whatever

part of the road suits him best (*Wallace v. Bergius*, [1915] S. C. 205).

In the very early case of *Cruden v. Fentham* (1799), 2 Esp. 685, Lord Kenyon observed that what is called the law of the road was introduced for general convenience ; that where carriages were driving in a narrow road or where accidents might happen it ought to be adhered to ; and in driving at night the rule ought to be strictly adhered to, and never departed from, as it was the only mode by which accidents could be avoided ; but he thought that where the road was sufficiently broad for all persons and carriages to pass, though a carriage might be driving on the wrong side of the road, if there was sufficient room for other carriages and horses to pass on the other, a person was not justified in crossing out of the way to assert what he termed the right of the road. It was putting himself voluntarily into the way of danger, and the injury was of his own seeking.

And similar observations were made in *Clay v. Wood* (1803), 5 Esp. 44 ; *Turley v. Thomas* (1837), 8 C. & P. 103 ; and *Pluckwell v. Wilson* (1832), 5 C. & P. 375 ; but it must be observed that none of these cases were cases of sudden emergency, where the blame must fall on him who has disregarded the rule, if he who is obeying it has no chance to avoid the accident (*Chaplin v. Hawes* (1828). 3 C. & P. 554).

In *Finegan v. London & North-Western Railway Co.* (1889), 53 J. P. 663, the Court held that there was no rule of the road which made the left always the proper side, and in *Hartley v. Chadwick* (1904), 68 J. P. 512, it was held that a driver of a vehicle was not entitled to hold to the left of a road when to do so would obstruct a tramcar, but that both he and the driver of the tramcar must act reasonably, neither having an absolute right to travel on that part of the highway or to pass traffic thereon.

In such cases, therefore, it may be said generally that to be on the wrong side of the road is no more than *prima facie* evidence of negligence, and that wantonly to cause damage

rather than neglect the ordinary rule is negligent and may be a sufficient ground to establish liability for the consequences (see *Wallace v. Bergius (supra)*).

The rule, so far as passing overtaken traffic is concerned, has always been regarded as an absolutely fixed rule from which no departure was justifiable except in very special circumstances (*Mayhew v. Boyce* (1816), 1 Starkie, 423; *Wordsworth v. Willan* (1805), 5 Esp. 273; *Nuttall v. Pickering*, [1913] 1 K. B. 14; *Umphray v. Ganson Brothers*, [1917] S. C. 371).

The latter case was one of a motor car passing a led horse, and Lord Dundas said :

" It is the duty of the driver of a motor car when overtaking and desiring to pass a led horse . . . to give the animal as wide a berth as is compatible with due regard to the safety of the car and to exercise all reasonable care and caution in manœuvring it while passing the horse."

The rule of the road has, of recent years, owing to the increased speed of road vehicles, been judicially developed as to the duties of those approaching main roads from side roads, a very fruitful source of accidents and one which could, in all probability, be largely removed by the classification of roads and the erection of warning signs, because in many places it is now difficult if not impossible for the driver to know whether the road upon which he is or that which he is approaching should be regarded as the main high road.

In the case of *Macandrew v. Tillard*, [1909] S. C. 78, the Lord President (Lord Dunedin) expressed himself in very clear terms. " The driver," he said, " knew that he was going to cross at right angles to a very frequented and main thoroughfare; and if there is one rule more than another that it is necessary to lay down for the practical conduct of traffic, it is that it is the business of those who are on the cross road and going to cross the main road to look out when they enter the main road and to give way to all traffic which is coming along the main road. Of course, there is a degree in everything. They have a right to cross

the main road . . . but . . . where there is any possibility at all of collision it is the business of the person on the side road to give way to the person on the main road. . . .”

See also *Campbell v. Train*, [1910] S. C. 556, and *Robertson v. Wilson*, [1912] S. C. 1276, in which it was pointed out, in arriving at a similar decision, that the rule did not absolve the main-road traffic from the duty of approaching the entrance to side roads with due care and precaution.

This extension of the rule of the road is one which very strongly commends itself to practical users of the highways.

There does not appear to be any reported case where the English Courts have given a similar decision, but negligence is a question of fact, and there should be small difficulty in arguing that the driver of a vehicle, coming out from a side road on to the main road, would be guilty of negligence if he did not do so with due care and was not prepared to give way to main-road traffic, the duty to do so being widely recognised in practice by the users of the highway. See also *Williams v. Richards* (1852), 3 C. & K. 81.

It may be observed that by the Motor Cars (Use and Construction) Order, 1904, Art. IV, serious and impracticable obligations as to meeting and overtaking other vehicles were imposed upon motorists, but that, after the case of *Burton v. Nicholson*, [1909] 1 K. B. 397, had served to show the character of these requirements in practice, they were withdrawn by an amending Order of April 19, 1909 (S. R. O. 1909, No. 394), and the matter was left to be governed by the ordinary law applicable to all other vehicles.

### *Responsibility of Owner for other Drivers' Negligence*

*Generally.*—The rule of law, *qui facit per alium facit per se*, makes the owner of a vehicle in certain circumstances responsible for damage caused by the negligence of his servants or of voluntary drivers when driving the vehicle.

Whether the owner is responsible for the negligence of his servant depends upon whether the servant is acting within the scope of his employment (*Irwin v. Waterloo Taxi-Cab Co., Ltd.*, [1912] 3 K. B. 588).

‘Whether the servant is so acting is a question of fact in each case, and the onus of establishing it in the first place rests upon the plaintiff who seeks to make the owner liable (*Ricketts v. Tilling* (1913), 30 T. L. R. 132).

The position of a proprietor of hackney carriages who lets them out to drivers on the usual sharing-terms is a special one, as to which see p. 184.

As regards a voluntary driver the test is whether the owner of the vehicle in requesting or permitting him to drive has given up or has retained his control or power to control the vehicle. If the owner is himself in the vehicle the Courts have taken the view that he has power to control the voluntary driver, and if he fails to exercise this power and to see that the vehicle is carefully conducted he will be held liable for any damage resulting (*Du Cros v. Lambourne*, [1907] 1 K. B. 40; *Samson v. Aitchison* (1912), 28 T. L. R. 559; *Reichardt v. Shard* (1914), 30 T. L. R. 81).

It is to be noted that in the latter case the owner was not in the vehicle, but he had placed the driver under the control of his chauffeur, who was present.

*To Unauthorised Passengers.*—If the owner’s servants carry a passenger on the vehicle the owner may be responsible as a carrier of that person, even if he has expressly forbidden his servants to carry passengers, if it can be shown that they frequently did so and that the owner had disregarded these breaches of his order (*Harris v. Perry & Co.*, [1903] 2 K. B. 219).

### *Liability for using Dangerous Vehicle*

As has been pointed out (*ante*, p. 57), the character of a vehicle may be such that it is a nuisance to place it upon the public highway, and if the owner of a dangerous vehicle places it upon the highway and damage results, he will be liable in damages for negligence to the injured party (*Walton v. The Vanguard Motor Omnibus Co., Ltd.* (1908), 7 L. G. R. 349; *Gibbons v. The Vanguard Motor Omnibus Co., Ltd.* (1908), 72 J. P. 505; *Barnes Urban Council v. The Vanguard Motor*

*Omnibus Co., Ltd.* (1908), 73 J. P. 68 ; *Wing v. The London General Omnibus Co., Ltd.*, [1909] 2 K. B. 652).

These were all cases arising out of the liability of motor omnibuses to skid on wet roads, and make it clear that if a vehicle which is a danger is placed upon the highway, its owner, by so doing, is abusing his right to use the highway in common with all others who use it and is liable for any injury which results from his action. As was pointed out by Lord Justice Fletcher-Moulton in the case last quoted, at p. 665, the basis of such claims is not really negligence, but that the vehicle is a nuisance (*a*).

### *Liability for Lack of Skill*

Although (see *ante*, p. 18) no qualification of skill, knowledge or experience is requisite to enable anyone to obtain a licence to drive a mechanically propelled vehicle, anyone who for want of skill causes damage by driving such a vehicle is liable for his negligence in undertaking to do so (*Hammack v. White* (1862), 11 C. B., N.S. 588 ; *Hutchison v. York Railway Co.* (1850), 5 Exch. 343).

To move the wrong control may be evidence of negligence or of want of skill which will make it negligence to be in control of a vehicle (*Wakeman v. Robinson* (1823), 1 Bing. 213).

## (B) STATUTORY OFFENCES

### (a) AS TO EQUIPMENT

The requirements as to construction and equipment have been dealt with in Chapter I, *ante*, and the failure to comply with these requirements is punishable as provided by the enactments therein referred to.

#### (b) FAILURE TO DISPLAY LICENCE FOR VEHICLE

See *ante*, p. 28.

#### (c) FAILURE TO DISPLAY REGISTRATION PLATES

See *ante*, p. 41.

(a) Mere breach of Use and Construction Order, 1904, Art. II. (6) (see *ante*, p. 8), does not of itself establish that the vehicle is a nuisance (*Phillips v. Britannia Hygienic Laundry Co., Ltd.*, [1923] W. N. 47).

*(d) OFFENCES AS TO LIGHTING**Lights on Motor Cars*

All light locomotives and motor cars, by the Locomotives on Highways Act, 1896, s. 2, were required to carry a lamp so constructed and placed as to exhibit a light during the period between one hour after sunset and one hour before sunrise, as required by regulations to be made under that Statute.

By the Motor Cars (Use and Construction) Order, 1904, Art. II (7), the lamp was required to be so constructed and placed as to exhibit a white light visible within a reasonable distance in the direction in which the vehicle is proceeding or is intended to proceed, and to exhibit a red light in the reverse direction; and it was provided that this lamp should be placed on the extreme off side of the motor car in such a position as to be free from all obstruction to the light. This Article provided, however, that if a second lamp, exhibiting a red light in the direction opposite to that in which the car is proceeding, were carried at the back of the vehicle, the provision as to the front lamp showing a red light might be neglected.

By the Road Vehicles (Registration and Licensing) Regulations, 1921, Art. 25 (1), however, the rear identification plate is required to be illuminated during the period between half an hour after sunset and half an hour before sunrise. So that the absolutely essential lights are a front light on the extreme off side of the vehicle and a rear light illuminating the rear plate and showing a red light to the rear, and the latter requires to be lit half an hour earlier and must be kept alight for half an hour longer than the former.

Legislation is in progress to prohibit the use of lights which are dazzling and so are a source of annoyance and danger to other traffic, and by the Motor Cars (Use and Construction) Order, 1904, Art. II (7) (2), the use of moveable lights or searchlights is forbidden.

It should be observed that owners may be held responsible for the failure of their servants to observe lighting regulations and may be convicted of aiding and abetting the offender (*Provincial Motor Cab Co. v. Dunning*, [1909] 2 K. B. 599). It is submitted, however, that such a conviction could only be justified when the owner had been guilty of neglect of some kind (see *Printz v. Sewell*, [1912] 2 K. B. 511; and see Roads Act, 1920, s. 6 (2), as to identification marks).

### *Lights on Motor Bicycles*

No motor bicycle, used without a sidecar or other vehicle being attached to it, need, by the Motor Cars (Use and Construction) Amendment Order (No. II), 1913, exhibit a red light in the direction opposite to which it is proceeding.

In the case of *Webster v. Terry*, [1914] 1 K. B. 51, it had been held that a red light visible behind was required by the terms of the Motor Cars (Use and Construction) Order, 1904, Art. II (7) (1), and the Amendment Order of 1913 was expressly made in order to do away with this necessity.

The Amendment Order of 1913 also provided that the front light need not, in the case of a motor bicycle, used alone, be placed on the extreme off side of the vehicle.

When a sidecar is attached to the motor bicycle, the obligation with regard to the front light is unaffected, unless the sidecar is attached to or projects beyond the off side of the bicycle, in which case the front light must be on the extreme off side of the sidecar (Amendment Order, 1913).

But a motor bicycle to which a sidecar or other vehicle is attached must be provided with a red rear light, but this may be attached, if desired, to the sidecar (*ibid.*).

These requirements fall to be considered with the requirements relating to the illumination of number plates, as to which see *ante*, p. 39.

*Lights on Locomotives*

By sect. 3 of the Locomotives Act, 1865, the person in charge of a locomotive was required to provide two efficient lights to be affixed conspicuously one at each side on the front of the locomotive between the hours of one hour after sunset and one hour before sunrise.

By sect. 5 (3) of the Locomotives Act, 1898, the carrying of these lights was made necessary whether the locomotive was stationary or passing on any highway, and the period during which they must be carried was extended to from sunset to sunrise during the six months from October 1 to April 1.

By the same section it was provided that, during the same hours, an efficient red light must be carried on the rear of the locomotive, or on the rear of the last trailer, if trailers are being drawn by the locomotive, so fixed as to be conspicuous, and that every light so carried must be fitted with shutters or other contrivances enabling the light to be temporarily screened in an effective manner.

The penalty for neglect of any of these requirements is a fine not exceeding £10, to which the owner of the locomotive is liable.

By the Road Vehicles (Registration and Licensing) Regulations, 1921, Art. 25, it is required that, during the period between half an hour after sunset and half an hour before sunrise, a lamp shall be kept burning on the locomotive, so contrived as to illuminate, by means of reflection, transparency or otherwise, and render easily distinguishable every letter or figure on the identification plate fixed at the back of the locomotive, or, if the locomotive is drawing trailers, so as to illuminate the identification plate on the back of the last vehicle so drawn.

The penalty for non-observance of this regulation is a fine not exceeding £20.

The times to be taken in deciding whether these requirements have been complied with are the local times and not Greenwich times (*Gordon v. Cann* (1900), 68 L. J. Q. B. 434).

## (e) EXCEEDING THE SPEED LIMIT

(1) *With Motor Car or Light Locomotive*

The offences of driving a motor car on a public highway or on a road to which the public are given access in any circumstances at a speed exceeding twenty miles an hour or, within "ten mile areas," at a speed exceeding ten miles an hour, are created by sect. 9 of the Act of 1903. The penalties for these offences are fines not exceeding £10 for the first offence, £20 for the second offence, and £50 for any subsequent offence. Nobody may be convicted of such an offence merely on the opinion of one witness, and unless either they are warned of an intended prosecution at the time the offence is committed, or notice of the intended prosecution is sent to them or to the registered owner of the car within such time, not exceeding twenty-one days, after the commission of the offence as the Court thinks reasonable.

The cases show that the first of these provisos is intended to apply only to cases where the evidence offered consists solely of the opinion, in the usual sense of the word, of a single witness. Where there is evidence of actual timing the matter is not one of mere opinion even if the methods employed are open to criticism (*Plancq v. Marks* (1906), 70 J. P. 216; *Gorham v. Brice* (1902), 18 T. L. R. 424; *Beresford v. St. Albans JJ.* (1905), 22 T. L. R. 1; *R. v. Edge*, M. U. D. (1908), 57; *Yeaman v. Jameson* (1909), 47 Sc. L. R. 158; *Wright v. Dumbartonshire JJ.* (1910), 47 Sc. L. R. 699).

Whether the methods of timing which have been adopted are satisfactory is a matter for the Court to decide, and the position selected for observation, the experience of the officers and the nature of their timing devices are all important elements in such cases, and may easily be so open to criticism that the Court will hold that the case for the prosecution has not been satisfactorily established (see *Wright v. Mitchell*, [1910] S. C. (J.) 94).

As regards the second proviso, what is a reasonable

time within which the notice must be sent, is, subject to the maximum of twenty-one days, a question of fact for the Court (*Beresford v. Justices of St. Albans* (1905), 22 T. L. R. 1).

The object of providing that a driver who is to be prosecuted must have notice of the prosecution in reasonable time is, no doubt, to enable him to prepare his defence, and if a defendant were to prove that the prosecution had an opportunity of giving him notice at once, and omitted to do so, a Court might well, in certain circumstances, hold that the notice was not given in reasonable time. It is a matter of doubt whether the warning or notice must state the limits within which the prosecution will prove, or try to prove, that the speed-limit has been exceeded. It is believed that the practice in this matter varies in different counties; but it is submitted that the warning or notice need not state more than that a prosecution is intended for breach of the provisions of sect. 9 of the Act, and that it should state, with reasonable accuracy, the place where the alleged offence was committed. It is clear that the warning given at the time of the alleged offence can be verbal (*Jessop v. Clarke* (1908), 6 L. J. R. 686), but an ordinary constable usually has no authority to say that a prosecution is intended and a mere statement that he will report the matter is not a sufficient warning (*Parkes v. Cole* (1922), 20 L. G. R. 463). The Act contains no provision requiring the notice when it is given later to be in writing; nor would there seem to be anything in the character of the notice which makes it reasonably necessary that a written notice should be served (see *Keen v. Millwall Dock Co.* (1882), 46 L. T. 472). But the High Court of Justiciary in Scotland has held that a verbal statement by a constable made some days after the alleged offence was not a sufficient notice, and seemingly that the notice must be in writing, and state the particulars of the charge and the date, hour and place of the alleged offence (*Hughes v. Nimmo*, [1910] 47 Sc. L. R. 381). The notice should

certainly be sent before the summons is issued ; for when this has been done the prosecution has in fact commenced, and is no longer merely "intended." As to the evidence necessary to establish the sending and receipt of the notice, see *Martin v. Brooman* (1909), 25 T. L. R. 783, where the leaving of a written notice with the porter in charge of chambers where the defendant lived was held to be sufficient *prima facie* evidence.

The giving of the warning or notice must be established by the prosecution by evidence, or the conviction cannot stand (*Dickson v. Stevenson*, [1912] S. C. (J.) 1).

The owner of the car, it would seem, is liable for the offence if he is in the car and ought to exercise control over the driver, and can be convicted without evidence being given to establish whether he or some other occupant of the car was actually driving at the time (*Benford v. Sims*, [1898] 2 Q. B. 641 ; *Du Cros v. Lambourne*, [1907] 1 K. B. 40).

The power by regulation to create "ten mile areas," conferred by sect. 9 on the Ministry of Transport, can only be exercised with a view to the safety of the public and on the application of one of the local authorities referred to in subsection (4). But the Ministry may, by subsection (3), revoke or alter any regulation made under the section without any such application if they first hear any objection which the local authority may raise.

Many regulations have been made under this power, and motorists are all familiar with the sign-posts, bearing a white ring eighteen inches in diameter with a plate below on which the limit is denoted in figures, which in accordance with the circular issued by the Local Government Board dated March 10, 1904, are employed to show the existence of "ten mile areas."

Under these powers no limit other than ten miles per hour can apparently be imposed, but as to the further powers of the Ministry to impose special limits under Locomotives on Highways Act, 1896, s. 6, see *post*, p. 264.

Questions have arisen as to whether to give warning to motorists of the existence of police traps amounts to obstruction of the police in the execution of their duty and is thus an offence within the meaning of the Prevention of Crimes (Amendment) Act, 1885, s. 2.

In *Bastable v. Little*, [1907] 1 K. B. 59, a charge of obstruction failed, but in *Betts v. Stevens*, [1910] 1 K. B. 1, such a charge was successful.

The distinction between the cases lies, apparently, in the fact that in the earlier case it was not proved that the motorists warned were exceeding the speed limit and the warning came from a person unconnected with the motorists in any way, whereas in the later case there was evidence that the motorists when warned were breaking the law and that the warning came from a servant of an Association of which the drivers warned were members.

In the later case it was said that the gist of the offence lies in the intention with which the act is done; that is, whether the warning is given to prevent the offence from being committed or to enable the offence to be committed without detection.

The change in the attitude of the police towards motorists since these cases were decided makes them of less importance than they formerly were in connection with this particular matter, but similar questions may still arise, and it is perhaps of importance, therefore, to note that the later of these decisions has been much criticised and that the question is still one upon which no complete certainty can be felt.

### *Endorsement of Licence*

In the case of offences which consist solely of excess of a speed limit fixed under the Act of 1903, the power to endorse does not arise unless the defendant has twice previously been convicted of excess of the speed limit fixed either under the Act *or by any other proper authority*. The words in italics must be added to sect. 4 (1) of the

Act of 1903, owing to the decision of the Divisional Court in *R. v. Marsham*, [1907] 2 K. B. 638. In that case the magistrate endorsed a licence with particulars of a first conviction for exceeding the limit in a royal park on the ground that the offence was one in connection with the driving of a motor car, and was not protected from endorsement by the words "other than a first or second offence consisting solely of excess of any limit of speed *fixed under this Act.*" The Divisional Court quashed the endorsement, holding that it would be absurd to protect a driver from endorsement for excess of the limit outside the parks whilst subjecting him to it for an excess within them.

If it be alleged that a driver has been twice previously convicted of an offence consisting solely of exceeding a speed limit, these convictions must be strictly proved, and this is frequently a matter of difficulty.

A constable who has stopped a driver and has noted the name and address on the licence, may identify the driver with the person charged, and this though no notice to produce the licence has been given (*Marshall v. Ford* (1908), 99 L. T. 796). This evidence was admitted as evidence of a fact ascertained by the constable in the performance of his duty and not, strictly speaking, of the contents of a document.

It has been held that, where a defendant did not personally attend the hearing, after notice had been given to him that evidence of previous convictions would be tendered, it was sufficient to establish the previous convictions to prove that a person of the same name and address had been so convicted and had then produced a licence bearing the same number as that held by the present defendant (*Martin v. White*, [1910] 1 K. B. 665).

One of the objects of licensing drivers is to assist in their identification, and the production of a licence is *prima facie* evidence that the particulars therein refer to the person producing it, and that he is the person to whom it was issued (*ibid.*).

Defendants who are legally represented cannot generally be compelled to attend personally, although their attendance is desired for identification purposes (*R. v. Montgomery* (1910), 26 T. L. R. 225; *R. v. Thompson* (1909), 25 T. L. R. 651. See *post*, p. 98).

Witnesses may be ordered to attend by summons, and if necessary compelled to do so by warrant. For procedure, see Summary Jurisdiction Act, 1848, s. 7. It is usual to issue a summons first, and a warrant cannot be issued unless the justice is satisfied by evidence on oath or affirmation that a person within his jurisdiction, who is likely to give material evidence for the complainant or defendant, will probably not attend to give evidence without being compelled so to do. Witnesses so brought who refuse to be examined may be committed to prison for not more than seven days (*ibid.*).

### (2) *With Heavy Locomotive*

By sect. 4 of the Locomotives Act, 1865, a speed limit is placed upon heavy locomotives of four miles an hour on the open road and two miles an hour in any city, town or village.

That limit is expressly made subject and without prejudice to the regulations authorised by the Act to be made by public authorities. Sect. 8 of that Act expressly debarred these authorities from relaxing this limit of speed, but gave them authority to make it more stringent. Sect. 31 of the Highways and Locomotives (Amendment) Act, 1878, which replaced sect. 8 of the Act of 1865, was, however, repealed by sect. 18 of the Locomotives Act, 1898, so that apparently this limit is not now subject to any variation.

This limit is not binding upon the Crown (*Cooper v. Hawkins*, [1904] 2 K. B. 164).

### (3) *With Heavy Motor Car*

The Minister of Transport, by virtue of the Motor Car Act, 1903, s. 12 (2), may make regulations imposing a

special speed limit for motor cars exceeding two tons in weight unladen, and by the Roads Act, 1920, s. 7 (5), such regulations may also impose such a special speed limit upon an agricultural tractor of any weight.

These powers were excised by the Heavy Motor Car Order, 1904, which, by Art. VII, fixed a speed limit of eight miles per hour for all heavy motor cars without pneumatic tyres or tyres of soft or elastic material, and a limit of five miles per hour for any such vehicle as exceeded three tons in weight unladen or six tons in registered axle-weight or drew a trailer. If pneumatic or soft or elastic tyres were fitted, the limits so fixed were twelve miles an hour when the registered axle-weight did not exceed six tons, and eight miles per hour when it did exceed six tons.

It has been held in Scotland that a motor car with a registered axle-weight of over six tons for one axle and under six tons for the other must observe the lower limits, even if the average axle-weight is under six tons (*Auld v. Pearson*, [1914] S. C. (J.) 4). This decision would, no doubt, be repeated if a similar case were to arise in England.

### (f) UNLAWFUL AND IMPROPER DRIVING

#### (1) *Driving recklessly, negligently, or to the Public Danger*

The first section of the Act of 1903 purports to create four offences: (1) driving recklessly, (2) driving negligently, (3) driving at a speed which is dangerous to the public, and (4) driving in a manner which is dangerous to the public. These offences are difficult to separate one from another, and the evidence which will prove one may frequently be such as would be relevant to prove another. As was observed by Darling, J., in *Beresford v. Richardson*, [1921] 1 K. B. 243, "The language of the section is not the language of precision: it uses in contradistinction the words 'recklessly or negligently,' whereas it is clear that if driving is reckless it must also be negligent, and so also with regard to speed and manner. I do not think that the

section means that speed is necessarily different from manner." A summons which includes more than one of these offences in one complaint may therefore be bad for duplicity (*R. v. Wells* (1904), 68 J. P. 392; *Connell v. Mitchell*, [1913] S. C. (J.) 13; *Dunn v. Mitchell*, [1911] S. C. (J.) 46). But see *R. v. Jones* (1921), 19 L. G. R. 354, where it was held that a conviction was not invalidated for duplicity by the inclusion in it of two of these offences, because the driving of a motor car was one indivisible act. In deciding whether any of these offences have been committed, the Court which hears a summons must have regard to "all the circumstances of the case, including the nature, condition, and use of the highway, and to the amount of traffic which actually is, or which might reasonably be expected to be," on it (see *Troughton v. Manning* (1905), 69 J. P. 207). The words "reasonably be expected to be" were most probably introduced into the Act to meet the case when a defendant pleaded that the road on which he was driving was empty; but they would seem capable also of being used for the benefit of the defendant. As to the evidence required to establish these offences, see *post*, p. 78.

### (2) *Driving to the Common Danger*

By the Public Health Acts Amendment Act, 1907, s. 79, it is an offence to ride or drive so as to endanger the life or limb of any person or to the common danger of the passengers in any thoroughfare, punishable by a fine not exceeding 40s. Any constable may, if he has witnessed the offence, arrest the offender without a warrant. This Act is an adoptive Act, and any portion of Part VII thereof (which contains the provisions for regulating traffic) may be put in force in an urban or rural district or county borough, if the borough or district council apply to the Secretary of State (the Home Secretary), and if he, in his discretion, by order declares that the desired part or section of the Act is to be in force in the area of the applicant council.

This offence is one which can be established without any proof of furious driving, and therefore a conviction may frequently be obtained under this section where no offence could be proved under the Town Police Clauses Act, 1847, or the Highway Act, 1835.

As to what evidence must be tendered to prove this offence and to identify the defendant as the driver who has committed the offence, see *post*, p. 78.

### (3) *Furious Driving*

By the Highway Act, 1835, s. 78, it is an offence "if any person riding any horse or beast or driving any sort of carriage shall ride or drive the same furiously so as to endanger the life or limb of any passenger," and he may be fined £5 or less, or, if he is the owner of the carriage, £10 or less, and may be imprisoned in default of payment. This clause has been held to apply to riders of bicycles (*Taylor v. Goodwin* (1879), 4 Q. B. D. 228).

A conviction under this section may be obtained upon the evidence of a single witness, as it contains no protective provision such as is found in the Motor Car Act, 1903, with regard to the proof required before convicting defendants who are charged with exceeding the speed limit.

It is permissible for any person witnessing the offence to apprehend the driver with or without a warrant and to convey him before a justice, and any refusal by the driver to disclose his identity is punishable by imprisonment (*ibid.* ss. 78 and 79; Summary Jurisdiction Act, 1879, s. 20).

It has been held that a driver who, when committing this offence, knocks down a person on the road cannot be convicted of assault (*Ackroyd v. Barrett* (1894), 11 T. L. R. 115).

But a conviction and a sentence of imprisonment have been obtained in similar circumstances under sect. 35 of the Offences against the Person Act, 1861 (*R. v. Parker* (1895), 59 J. P. 793).

This offence may also be punished under sect. 28 of

Town Police Clauses Act, 1847, in areas where this Act is in force.

And, in areas where sect. 81 of the Public Health Act, 1907, applies, it is an offence to ride or drive furiously in any place of public resort or recreation ground belonging to or under the control of the local authority or on any unfenced ground adjoining or abutting upon a street, as these places are by that section made "streets" for the purposes of the Town Police Clauses Act, 1847, s. 28, so far as this and certain other offences are concerned.

In the Metropolis furious driving is an offence under Metropolitan Police Act, 1839, s. 53 (5), and is punishable by a fine not exceeding 40s.

As to what evidence is required to prove this offence and to identify the defendant as the driver who has committed the offence, see *infra*.

#### (4) *Evidence of Improper Driving and Identification*

It has been held that in order to support a conviction for reckless or negligent driving, the recklessness or negligence need not be flagrant or even wilful or morally blameworthy in any way (*Waugh v. Campbell*, [1920] S. C. (J) 1). The question is one of fact, and the finding will not be disturbed so long as there was some evidence upon which such a finding could be arrived at.

In a summons for negligent driving it is not necessary to set out in detail what is alleged to have constituted the negligence (*Todrick v. Dennelar*, [1904] 42 Sc. L. R. 199).

Where driving at a speed or in a manner dangerous to the public is alleged, it is well settled that the defendant can properly be convicted without evidence that any member of the public was in fact endangered (*Elwes v. Hopkins*, [1906] 2 K. B. 1; *Smith v. Boon* (1901), 65 J. P. 486; *Ex parte Stone* (1909), 25 T. L. R. 787; *R. v. Dublin Justices*, [1904] 2 Ir. R. 698; see also *Mayhew v. Sutton* (1901), 18 T. L. R. 52). The question is one of fact in all the circumstances and in *Ex parte Stone* (*supra*)

a finding that to drive through a particular village at twenty-three miles an hour was driving dangerous to the public was upheld.

It is relevant to consider the speed in relation to the character of the road, the amount of traffic, and the time of the alleged offence. For example, that the day in question was a public holiday or that the vehicle was nearing cross-roads are relevant considerations (*Beresford v. Richardson*, [1921] 1 K. B. 243).

Although driving at a speed dangerous to the public is an offence in itself, evidence of such speed is evidence of committing the separate offence of driving in a manner dangerous to the public, and may be sufficient evidence in itself to warrant a conviction for that offence (*Beresford v. Richardson* (1920), 37 T. L. R. 53; *Hargreaves v. Baldwin* (1905), 69 J. P. 397). But the danger caused or liable to be caused must be danger to the public using the highway, and it will not be evidence to support such a charge that danger was caused to a person who, for his own purposes, held on to the car (*Troughton v. Manning* (1905), 92 L. T. 855).

If, in hearing a charge of driving in a manner dangerous to the public, the Court have taken the speed into consideration, their decision, whether it be acquittal or conviction, will be a bar to a further prosecution for exceeding the speed limit. Whether speed has been so relied upon is, of course, a question of fact (*Welton v. Taneborne* (1908), 72 J. P. 419; *Wemyss v. Hopkins* (1875), L. R. 10 Q. B. 378).

Questions sometimes arise in such cases as to the sufficiency of the evidence to show that the defendant was actually driving the car when the offence was committed. It has been held that to prove that he was driving at the end of a measured distance is evidence upon which the Court may be satisfied that he was the person who committed the offence (*Beresford v. St. Albans J.J.* (1905), 22 T. L. R. 1).

But it is not sufficient merely to identify the car without

some definite identification of the driver (*Police v. Canese*, M. U. D. (1908), p. 47).

But it must be remembered that a person who aids and abets the commission of an offence punishable on summary conviction may, under sect. 5 of the Summary Jurisdiction Act, 1848, be convicted on an information which charges him with having committed that offence as a principal offender (*Du Cros v. Lambourne*, [1907] 1 K. B. 40, following *Benford v. Sims*, [1898] 2 Q. B. 641).

For the purpose of proving that the person charged was the driver of the car at the time when the offence was committed it is permissible for a constable to give evidence that he asked the person who was driving the car at the time of the offence for his licence, and that the name and address on the licence were those of the person who is charged. And this may be done though no notice has been given to the defendant to produce his licence at the hearing (*Marshall v. Ford* (1908), 72 J. P. 480). But it is obviously more satisfactory to give the defendant notice to produce his licence.

A conviction under sect. 1 (1) of the Act of 1903 is not bad because the summons sets out that the defendant is charged with an offence against the section, "the same being his second offence," or because evidence is tendered by the Crown (though not noticed by the Court or recorded by the clerk) showing that the defendant's licence, when shown to the witnesses for the Crown at the time when the defendant's car was stopped, was already endorsed (*Cholerton v. Copping* (1906), 70 J. P. 484).

#### (5) *Liability to Arrest*

Subsection (2) of section 1 provides that a person who commits an offence under the section in view of a constable may be arrested without warrant by that constable under certain conditions. It may be noted that this is the only power of arrest given by this Act. There is, however, the power of arrest without warrant given to any person within whose sight any person is guilty of furious driving under

Highway Act, 1835, s. 78. As it cannot be ascertained until after a conviction whether such an offence has really been committed, this provision must be taken to mean that a constable may arrest a person who, in his opinion, is committing or has committed such an offence within his view. The conditions under which such arrests may be made are not very lucidly specified in the Act. It is clear that a constable may always make the arrest if the car does not bear the proper mark or marks of identification. It is clear, too, that even if in a properly marked car the person committing the offence may be arrested, if he *both* refuses to give his name and address *and* refuses to produce his licence. But it is not clear that he is liable to arrest if the car is marked properly, and if he is ready *either* to give his name and address *or* to produce his licence. As we read the section, he cannot (in a case when he is committing an offence under sect. 1) be arrested without warrant for refusing or failing to produce his licence if he gives his name and address and his car is properly marked; nor can he be arrested for refusing to give his name and address if his car be properly marked and he produces his licence.

(6) *Obligation of Driver to give Name and Address*

Subsection (3) of sect. 1 provides that if a driver who commits an offence under sect. 1 of the Act refuses to give his name and address, or gives a false name and address, he is guilty of an offence under the Act which will be punishable under sect. 11. Whether the driver has refused to give the information is a question of fact. The car need not be stopped, and it is for the Court to decide, if no answer is given, whether a request was made to and heard and understood by the driver. It is not clear whether this subsection covers only the refusal of the name and address or the giving of a false name or address to the constable referred to in the preceding subsection, or extends to the refusal of the name and address or the giving of a false name and address to any other person. The

drafting of the subsection is such that it would be a matter of considerable difficulty to contend for the limited construction.

The subsection then goes on to provide that where an offence under sect. 1 (1) of the Act is alleged to have been committed, and the correct name and address of the driver has not been obtained, whether demanded and not given or not, it is the duty of the owner of the car, if required, to give any information which it is in his power to give which may lead to the identification and apprehension of the driver, and if he fails to do so he is guilty of an offence under the Act which will be punishable under sect. 11. The subsection is loosely drafted, but such would appear to be the interpretation put upon it by the cases of *R. v. Hankey*, [1905] 2 K. B. 687, *R. v. Chancellor* (1905), 69 J. P. 383, and *Ex parte Beecham*, [1913] 3 K. B. 45.

#### (7) *Obligation of Owner to supply Information*

The requisition for information made on the owner of a car in default of the driver having given his proper name and address must state that the driver has committed an offence under subsection (1), but it need not specify in detail what the offence is (*Ex parte Beecham*, [1913] 3 K. B. 45).

It may be noted that the Act contains no definition of "owner," and presumably the question of who is the owner is a question of fact, and where the car is the joint property of two or more persons presumably the liability rests upon them all. In a case of *Woodward v. Boustead*, referred to in the "Motor Union Digest," 1908, p. 35. it is said to have been decided by Alverstone, C.J., and Ridley and Darling, JJ., that the person appearing on the register as the owner of a car is estopped from denying that he is the owner, but presumably such an entry would not be any bar to evidence being adduced to rest upon any other person the liabilities of an owner if he in part owned the car either solely or jointly with the registered owner.

(g) FAILURE TO STOP AFTER ACCIDENT

By Motor Car Act 1903, s. 6, a person driving a motor car is obliged to stop if an accident occurs to a person on foot, on horseback, or in a vehicle, or to a horse or vehicle in charge of a person, owing to the presence of the motor car on the road, and must, if required, give his name and address, and the name and address of the owner of the car and its number; and any driver knowingly acting in contravention of this provision is liable on summary conviction to a fine not exceeding £10 for the first offence, and to a fine not exceeding £20 for the second offence, and to a fine not exceeding £20 or to imprisonment for a period not exceeding one month for any subsequent offence.

This section is very loosely drawn and does not appear to be applicable to any accident occurring to any animal other than a horse in charge of a person. The question might also arise as to whether a cyclist was within the wording of the section as being a person "in a vehicle." The obligation to stop must be interpreted to mean to pull up immediately the accident occurs, but it is far from clear whether the obligation to give particulars is an obligation to give them only to those actually concerned or generally to anyone witnessing or busying himself about the accident. The wording, however, is such that it would seem to support the view that anyone present is entitled to demand the information, and this may be the intention, because, in some cases, the accident may be such that those injured will be unable themselves to require or record these facts. The word "knowingly" in sect. 6 will apply to protect drivers who do not know that an accident has occurred, and the burden of proving that he did know it had occurred lies on the prosecution (*Sherras v. De Rutzen*, [1895] 1 Q. B. 918.)

(h) FAILURE TO PRODUCE DRIVING LICENCE ON DEMAND

By sect. 3 (4) of the Act of 1903, a driver must at any time produce his driving licence on the demand of a constable, and failure so to do renders him liable on summary

conviction to a fine not exceeding £5. This obligation is quite apart from any offence being alleged to have been committed or anything untoward having occurred.

### (i) OBSTRUCTION

The user of the highway must exercise his right of passage reasonably and must not so exercise it as to impede other users in the exercise of their similar rights. This principle has already been referred to with regard to nuisance, *ante*, p. 55. The same considerations exactly apply to obstruction caused either by leaving a vehicle stationary on the highway or by so driving it as to impede other traffic.

Whether obstruction has been caused is a question of fact. For example, it does not amount to obstruction to occupy a certain part of the highway if a free passage is still left for the traffic said to have been obstructed (*Sleith v. Godfrey* (1920), 85 J. P. 46).

And the element of unreasonable user is an essential element of obstruction. There is no absolute right belonging to fast traffic to pass slower traffic, and there is no absolute right belonging to any traffic to adhere to a particular part of the road regardless of the convenience of other traffic, but once an unreasonable impediment is caused to other traffic then there is the offence of obstruction (*Hartley v. Chadwick* (1904), 68 J. P. 512).

But it is not essential to the offence that any person shall have been actually obstructed if the unreasonable user be such as was calculated to cause obstruction (*Gill v. Carson*, [1917] 2 K. B. 674; *Brotherton v. Tittensor* (1896), 60 J. P. 72; *Smith v. Perry* (1906), 94 L. T. 140; *McKee v. McGrath* (1892), 30 L. R. Ir. 41; *Phythian v. Baxendale*, [1895] 1 Q. B. 768).

Merely to leave a vehicle standing for a short time on a highway may not be unreasonable, and if not it will not amount to an obstruction (*ibid.*; and see *Macfarlane v. Colam*, [1908] S. C. (10 F.) 56).

A conviction for obstruction may be valid even if only

a part of the highway is proved to have been obstructed (*Geering v. Barfield* (1864), 16 C. B., N. S. 597).

By the Highway Act, 1835, s. 78, it is an offence for the driver of a vehicle to leave it on the highway so as to obstruct the passage thereof, and the offence is punishable by a fine not exceeding £10 if the driver is the owner of the vehicle, or £5 in other cases, or, in default, by imprisonment with hard labour for not more than six weeks.

It is not an absolute defence to a charge under this section that the vehicle was left in the charge of some person, for it might be, for example, that the person so left in charge had been forbidden or did not know how to move on the vehicle (*Hinde v. Evans* (1906), 70 J. P. 548).

By the same section it is an offence, subject to the same penalty, wilfully to prevent any person from passing or by negligence or misbehaviour to prevent, hinder or interrupt the free passage of other traffic, or to fail to draw in to the left to allow such passage. It is not an offence under this section to leave insufficient room for a vehicle to pass on the off side if free passage is left on the near side so that the vehicle is not in fact delayed (*Nuttall v. Pickering*, [1913] 1 K. B. 14).

In that case Lord Alverstone, C.J., stated that in his opinion this section was not intended to restrict the right of the driver of a vehicle to go on any part of a highroad in the absence of other traffic, but disclaimed any desire to hold that drivers of vehicles had the right to compel the drivers of other vehicles to pass them on the wrong side against their will.

See also *Hartley v. Chadwick* (1904), 68 J. P. 512, which dealt with the position when tramlines were so laid that the tramcars could not pass a vehicle which held to the left of the road, and laid it down that vehicles were not entitled to hold to the left unreasonably and regardless of the obstruction caused to the trams, any more than the trams were entitled unreasonably to expect vehicles to give way in the circumstances.

By Town Police Clauses Act, 1847, s. 28, it is an offence to cause obstruction, annoyance or danger to passengers or residents by making or repairing any part of a vehicle in a street, except where repair on the spot is necessary as the result of an accident, or by obstruction wilfully to prevent traffic from passing or wilfully to obstruct any thoroughfare by any vehicle or by any other means.

This Act is in force in municipal boroughs and urban districts, and it is an essential feature of the offences created by it that they should be committed in a street and that obstruction must be caused by them.

Evidence by a police officer alone will suffice to prove such offences, if it is of such a character that the magistrates can conclude that obstruction has taken place, and it is not essential that the persons obstructed should themselves be called (*Woolley v. Corbishley* (1860), 24 J. P. 773; *Read v. Perrett* (1876), 1 Exch. Div. 349; *R. v. Fermanagh JJ.* (1883), 14 L. R. Ir. 50; *Gill v. Carson*, [1917] 2 K. B. 674).

By the Motor Cars (Use and Construction) Order, 1904, Art. IV, it is made an offence to allow a motor car or a vehicle drawn thereby to stand on a highway so as to cause any unnecessary obstruction thereof.

Obstruction by leaving a car standing is not an offence in connection with the driving of the car, and therefore cannot on that ground justify disqualification or suspension under Motor Car Act, 1903, s. 4, and cannot on that ground be made the subject of an endorsement of the driver's licence (*R. v. Lyndon* (1908), 72 J. P. 227; *R. v. Yorkshire JJ.*, [1910] 1 K. B. 439).

But an offence against this Order was in *R. v. Gill* (1909), 7 L. G. R. 589, held to be an offence under the Act of 1903, and if this decision is correct there appears to be no reason why an endorsement should not be made or disqualification or suspension be decreed on that ground, which was not raised or considered in *R. v. Yorkshire JJ.* (*supra*).

In the Metropolis, by the Metropolitan Police Act, 1839, s. 53 (6), provision is made against obstruction in the metropolitan area. Under this section obstruction has been held to be a question of fact, and it has been held that unless actual obstruction is proved no offence is established (*Dunn v. Holt* (1904), 73 L. J. K. B. 341).

#### (j) DRIVING OR RIDING ON THE FOOTPATH

By the Highway Act, 1835, s. 72, it is made an offence for anyone wilfully to ride upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers, or to drive any carriage thereon. "Wilfully" has been held to mean "purposely" in this section (*Fearnley v. Ormsby* (1879), 4 C. P. D. 136; *Re Young* (1885), 31 Ch. D. 174).

So a person to render himself liable to conviction for this offence must be acting purposely and must know that he is on forbidden ground. Moreover, the footpaths referred to by the section are those only which are by the side of a road (*R. v. Pratt* (1867), L. R. 3 Q. B. 64).

Bicycles are carriages within the meaning of the section (Local Government Act, 1888, s. 85). There appears formerly to have existed a doubt as to whether a conviction for this offence could be valid unless it were proved that some person had been obstructed by the conduct of the defendant, but it is now quite clear that no such proof is required (*Smith v. Perry* (1906), 94 L. T. 140; *McKee v. McGrath* (1892), 30 L. R. Ir. 41).

Any person witnessing the offence may arrest the offender with or without a warrant (Act of 1835, s. 78).

#### (k) OFFENCES UNDER MOTOR CAR (U. & C.) ORDER, 1904, AND HEAVY MOTOR CAR ORDER, 1904

Various duties are laid upon the drivers and those in charge of light locomotives, motor cars and heavy motor cars upon roads to which the public have access by the Motor Car (Use and Construction) Order, 1904, Art. IV, and the Heavy Motor Car Order, 1904, Art. XVI.

### (1) *Position of Driver*

The driver when on the vehicle must be in such a position that he can control it and at the same time have a full view of the road and of the traffic ahead of the vehicle (M.C. (U. & C.) O. 1904, Art. IV (2)).

### (2) *Giving Warning*

Whenever necessary the driver must sound the bell or other instrument of warning required by sect. 3 of the Locomotives on Highways Act, 1896, so as to give audible and sufficient warning of the approach or position of the vehicle (*ibid.* Art. IV (5)).

### (3) *Use of Silencer*

The exhaust gases from the engine of any light locomotive or motor car propelled by an internal combustion engine must not be allowed to escape into the atmosphere without first passing through a silencer, expansion chamber or other contrivance suitable and sufficient to reduce as far as may reasonably be practicable the noise which would otherwise be caused by their escape, and it is therefore illegal to use any cut-out, fitting or apparatus which permits the gases to escape without the noise being so reduced (*ibid.* Art. IV (7)). This requirement applies also to motor cycles (see Motor Cars (Use and Construction) Amendment Order, 1909).

It may be noted that it is not every standard arrangement for silencing motor cars and motor cycles, supplied by manufacturers, which complies with these requirements, and that the arrangement is the standard one will not afford a defence to the driver in such cases. How far, in such a case, the manufacturer may be taken to warrant that the apparatus supplied does comply with the legal requirements and may be responsible to a purchaser who is fined for breach of the regulations, may yet come before the Courts and may afford an interesting legal argument, both as to the extent of any implied warranty and as to the conclusive-

ness or otherwise, as against the manufacturer, of the findings of the justices who have inflicted the penalty.

#### (4) *Reversing*

The driver of a light locomotive or of any motor car may not proceed backwards for a greater distance or for a longer time than may be requisite for the safety or convenience of the occupants of the vehicle and of the passengers and other traffic on the road (M.C. (U. & C.) O. 1904, Art. IV (1)).

It should be noted that the test is the joint safety and convenience of the occupants of the vehicle and the other users of the road.

#### (5) *Leaving Car*

The driver when leaving the vehicle must take due precaution against it being started in his absence (*ibid.* Art. IV (2)).

It is submitted that due precaution can only extend to precautions of an ordinary nature which will prevent the accidental starting of the vehicle, and cannot extend to such precautions as would be necessary to ensure that the vehicle cannot be re-started by the wrongful act of third parties, if their action extends to throwing the machinery into motion in the ordinary way (see *Ruoff v. Long & Co.* (1915), 32 T. L. R. 82). The driver must also leave the vehicle so that it causes no unnecessary obstruction (*ibid.*).

As to obstruction, see *ante*, p. 84.

### (1) OFFENCES WITH HEAVY LOCOMOTIVES

#### (1) *Attendance*

A locomotive, other than a light locomotive or motor car, must be attended when passing on a public road by at least two persons to drive and attend it (Locomotive Act, 1898, s. 5 (1) (a)).

By the same section, subsection 1 (b), it is provided that any locomotive, other than a steam roller, shall also be accompanied by a third person to give assistance to any person with horses or horse-drawn vehicles meeting or

overtaking the locomotive. So that locomotives, other than steam rollers, require even when travelling alone to have a crew of three men at least.

If the locomotive is drawing more than three waggons, a fourth attendant is required for the purpose of attending to the waggons (*ibid.* subsection 1 (c)).

But an express exception is made to these requirements in the special case of two locomotive plough engines (including the necessary gear) closely following one another, so that not more than five men need be with them so long as one of the five is employed to assist with horses and horse traffic (*ibid.* subsection (1)).

When a locomotive is stationary on a public road, so long as its fires are alight or so long as the locomotive is capable of moving under its own power, one person at least must remain in attendance (*ibid.* subsection (2)).

Whether an attendant, having regard to his position and to any other occupation in which he may be engaged, is available to assist horse traffic is a question of fact in each particular set of circumstances (*Davis v. Browne* (1879), 48 L. J. M. C. 92).

## (2) *Use of Trailers*

By sect. 3 of the Locomotives Act, 1898, a locomotive may not be used to draw more than three loaded waggons, exclusive of any waggon solely used to carry water for the locomotive, except by the special consent of the borough council, so far as roads in a municipal borough are concerned, or of the county council so far as other roads are concerned.

A waggon, for this purpose, includes any truck, cart, carriage or other vehicle (see sect. 17 of the Act 1898). This definition covers not only vehicles capable of carrying loads, and an agricultural machine on wheels will fall within it (*Smith v. Pickering*, [1915] 1 K. B. 326).

It is to be observed that this provision does not in any way restrict the number of unloaded waggons that may be so drawn.

### (3) *Weight of Trailers*

By sect. 4 of the Locomotive Act, 1861, the maximum load to be carried on each pair of wheels of any trailer was prescribed.

This section is still in force as amended by sect. 1 of the Locomotives Act, 1898, but by the same section local authorities have power to permit heavier loads. These maximum loads depend upon whether the trailer has cylindrical wheels as defined by sect. 9 of the General Turnpike Act, 1822, and, if so, whether they also have springs on each axle.

The permitted weights depend on and increase with the width of the tyres of the wheels.

These limits do not apply to a trailer carrying only one block, plate, cable, roll, vessel of stone or metal, or other single article of a weight exceeding 16 tons if the tyres of the vehicle are not less than 8 inches in width, but if damage results from such traffic it shall be deemed to be damage caused by excessive weight within the meaning of sect. 23 of Highways and Locomotives Amendment Act, 1878, as amended by the Act of 1898, as to which see *post*, p. 144.

It is to be observed that no limit is prescribed for the weight of the waggon itself but only for the load.

### (4) *Affixing Tare of Trailer*

By sect. 2 of the Locomotives Act, 1898, the unladen weight of a trailer drawn by a locomotive must be conspicuously and legibly affixed thereon under penalty not exceeding £5.

An owner who fraudulently so affixes any incorrect weight is liable, on summary conviction, to a fine not exceeding £10.

### (5) *Weighing Trailers*

As to the weighing of trailers by local authorities, see *ante*, p. 7, and *infra*.

### (6) *Weighing Locomotives*

By sect. 4 of the Locomotives Act, 1898, road authorities may set up machines for weighing locomotives and loaded waggons drawn by them, and may require locomotives and waggons to be brought to these machines and weighed, the penalty for refusal being a fine not exceeding £10. If the locomotives and waggons are found to be within the authorised limits the authority must pay for the loss caused by the delay involved in weighing, the amount in the absence of agreement to be settled by arbitration. Where locomotives and waggons have been weighed, the road authority must give a certificate of the weighing which will exempt the locomotives and waggons from further weighing on the same journey. Who are the road authority for this purpose is not specified, but presumably they will be the councils referred to in the preceding section of the Act.

### (7) *Passing other Traffic*

Those running heavy locomotives on the road are bound to exercise the same care and to observe the same rules as those in charge of other vehicles, but, in addition, they are specially required by the Locomotives Act, 1865, s. 3 (3), to give as much space as possible for the passing of other traffic, and to fail to do so is an offence punishable by a fine not exceeding £10.

### (8) *Use of Whistle*

The whistle of a locomotive may not be sounded for any purpose whatsoever when the locomotive is on the road (Locomotives Act, 1865, s. 3 (4)).

### (9) *Opening Cylinder-taps*

The cylinder-taps of a locomotive may not be opened within sight of any person riding or driving or leading or in charge of a horse on the road (*ibid.*).

### (10) *Blowing-off*

It is an offence to allow the steam of a steam locomotive to reach such a pressure as exceeds the limit fixed by the safety-valve, so that steam blows off on the road (*ibid.*).

(11) *Stopping for Horses*

It is an offence, punishable by fine not exceeding £10, for a locomotive not to be stopped instantly, if the person preceding it, or any person with a horse or horse-drawn carriage, puts up his hand as a signal to require the locomotive to be stopped (*ibid.* s. 3 (5)).

(m) LIABILITY OF OWNER AND DRIVER FOR OFFENCES WITH  
HEAVY LOCOMOTIVES

By Locomotives Act, 1898, s. 13 (1), it is provided that any servant, workman or other person who in fact commits an offence under any Act or against any bye-law relating to locomotives on highways for which the owner of a locomotive or waggon is liable to penalty, shall be himself liable to the same penalty as if he were the owner.

And by sub-section (2) of the same section the owner of a locomotive who is charged with an offence is enabled, by laying an information, to have anyone whom he charges as the actual offender brought before the Court when the charge is heard, and, if the offence is then proved to have been committed, the owner can exempt himself from any fine by proving that he has used due diligence to enforce the execution of the Act and that the other person committed the offence without his knowledge, consent or connivance, and the Court will convict the actual offender.

These provisions, of course, only affect heavy locomotives and do not apply to light locomotives or motor cars, which are outside the scope of this Act by reason of the provisions of the Locomotives on Highways Act, 1896, and the Motor Car Act, 1903.

## CHAPTER V

### PROSECUTIONS AND LEGAL PROCEEDINGS

#### (A) SUMMARY JURISDICTION.

- (1) Notice of Intended Prosecution.
- (2) Informations, Summonses and Warrants.
- (3) Appearance of Defendant at Hearing.
- (4) Non-appearance of Informant.

#### (B) CONVICTIONS.

#### (C) APPEALS.

- (1) To Quarter Sessions.
- (2) Stating a Case.
- (3) Mandamus, Certiorari and Prohibition.

#### (D) BIAS OF JUSTICES.

### (A) SUMMARY JURISDICTION

It is not the object of this chapter to discuss generally the law of summary jurisdiction. Such a discussion could add little to the excellent books which have been written on the subject (*a*). But inasmuch as all, or almost all, the offences relating to locomotives and motor cars on the highway may be dealt with summarily, and as the summary treatment of offences in connection with motor cars has raised many important questions of law and practice, it seems desirable briefly to refer to portions of the law of summary jurisdiction, and to say something of the rights and obligations of the owners and drivers of motor cars or locomotives when brought before summary courts.

#### (1) NOTICE OF INTENDED PROSECUTION

Before the summons or warrant is issued the person who is to appear or to be arrested is, in one particular case, entitled to warning or notice of the prosecution which is to be brought against him. That case is the case of prosecutions for excess of the speed limit fixed by sect. 9 of the Motor Car Act, 1903, as to which see *ante*, p. 69 *et seq.*

(*a*) Glen's Summary Jurisdiction Acts; Paley's Summary Convictions; Atkinson's Magistrates' Manual; and Stone's Justices' Manual, 1923.

Except in this special case, no preliminary notice is necessary for summary proceedings.

## (2) INFORMATIONS, SUMMONSES AND WARRANTS

The first step in such proceedings is the information or complaint; and in motor car cases they must needs commence by information, for the object of the proceedings is not to obtain an order for the payment of money or the performance of an act, but to recover a penalty or get a sentence of imprisonment. Informations need not be affirmed on oath of the informant or other witnesses, unless it is intended to issue a warrant and not a summons (b). If a warrant is asked for in the first instance it is the practice to have the information in writing, though there is no need, except where statutes specially order it, to have it so (c).

Justices have a discretion to issue a warrant in the first instance, but should not do so unless there is every probability of a summons not being attended to, or of the person absconding when he is informed that proceedings will be taken against him (d).

The information must state the name and occupation of the person charged, and must specify the offence and when and where it was committed (S. J. A., 1848, s. 6).

If the precise time cannot be stated, the time should be described as between certain limits (*Onley v. Gee* (1861), 30 L. J. 222).

No objection can be taken to any information, complaint, warrant or summons for a mere defect in substance or form (S. J. A., 1879, s. 39).

An information may relate to one offence or matter of complaint only (S. J. A., 1848, s. 10), but several defendants may be joined if the offence is one which admits of the participation in it of several defendants (*Ex parte Biggins* (1862), 26 J. P. 244; *R. v. Littlechild* (1871), L. R. 6 Q. B. 293).

It has been held that an information which charges a

(b) Summary Jurisdiction Act, 1848 (11 & 12 Vict. c. 43), sects. 2 and 10.

(c) *Atkinson, op. cit.*, p. 32.

(d) *Glen's Summary Jurisdiction Acts*, 1884, p. 12.

defendant "with driving recklessly and at a speed *and* in a manner dangerous to the public" is not bad for duplicity. If the last "and" had been "or" it would have been, because it would charge two offences (*R. v. Wells* (1904), 68 J. P. 392).

Every summons must be served by a constable or other peace officer, or other person to whom it is delivered for service, by giving it to the person summoned or by leaving it with some person for him at his last or most usual place of abode (*S. J. A.*, 1848, s. 1).

"Place of abode" means place of residence, and does not include a lock-up shop or office (*Ex parte Taylor* (1911), 75 J. P. 95; *Ex parte McVittie* (1914), 79 J. P. 527).

If left with any person other than the person summoned, the constable must explain the nature of the summons to such other person; and must, if necessary, attend the court to prove the service on the defendant "within reasonable time before the time so appointed for his appearance" (*R. v. Smith* (1875), L. R. 10 Q. B. 604; *Ex parte Cookson* (1909), 73 J. P. 485; *Re Williams* (1851), 21 L. J. 46). The hearing cannot go on in the absence of the defendant unless this is proved; but if it be proved the justices can proceed without the party being present (*ibid.*).

If after proof of service an order is made against an absent defendant, the order can be quashed if the defendant afterwards proves that he did not receive the summons (*R. v. Farmer*, [1892] 1 Q. B. 637). Companies may be served by a prepaid letter posted and addressed to their registered address (*e*).

The summons should shortly state the matter of the information and require the defendant to appear before the justices who issue it or others of the same county, city or borough, at a certain day, hour and place to answer the information and be further dealt with according to law (*f*). Although the Act of 1848 provides that the

(*e*) Companies Act, 1862 (25 & 26 Vict. c. 89), sect. 62.

(*f*) See for details, Summary Jurisdiction Act, 1848, sect. 1.

summons shall state the nature of the complaint, it provides also that objections may not be taken to the summons for any defect in form or substance or for any variance between the complaint and the evidence given in support of it, unless the justices think that the defendant is deceived or misled (*g*) by such variance; in which case they may adjourn the hearing. If, however, the evidence discloses an offence distinct from that set out in the summons, the justices should not convict (*h*); but should adjourn the case and issue a fresh summons. Where, therefore, a driver is charged with driving to the public danger, contrary to sect. 1 of the Motor Car Act, 1903, he cannot be convicted of exceeding the speed limit laid down in sect. 9 of the Act.

As to, the time at which the offence is alleged to have been committed, a variance between the time at which the information alleges that an offence took place and the time at which the evidence given proves it to have taken place is not material or a ground for objection (*i*); and no variance between the information and the evidence as to the place at which the offence is alleged to have been committed is material, provided that both information and evidence allege or prove it to have been committed within the jurisdiction of the justices who hear and determine the complaint: but this is subject to the discretion of the justices to adjourn a hearing, if they think the defendant has been misled or deceived by this or any other variance (*Exeter Corporation v. Heaman* (1877), 42 J. P. 503). At such adjournment the defendant may be committed, or bound by recognizance, with or without sureties, to appear at the adjourned hearing (*k*).

Warrants issued by justices in summary matters may be backed by any other justice in the United Kingdom, under sect. 3 of the Act of 1848, which incorporates the provisions of the Indictable Offences Act (*l*) of the same year dealing with backing warrants in cases of such offences.

(*g*) Summary Jurisdiction Act, 1848, sect. 1.

(*h*) *Martin v. Pidgeon* (1859), 28 L. J. M. C. 179.

(*i*) Unless the variance is so great as to make the information out of time (Summary Jurisdiction Act, 1848, sect. 9).

(*k*) *Ibid.*

(*l*) 11 & 12 Vict. c. 42, ss. 11-15.

### (3) APPEARANCE OF DEFENDANT AT HEARING

When a defendant receives a summons and instructs a solicitor or counsel to appear for him, it is not generally necessary that he should appear in person, and the justices usually have no power to compel his personal appearance by warrant, whether it be desired for other purposes or for the identification necessary in proving previous convictions. To compel attendance, in the latter case, would in effect indeed be to compel the defendant to provide against himself evidence not otherwise available to the prosecution (*R. v. Thompson*, [1909] 2 K. B. 614; *R. v. Montgomery* (1910), 26 T. L. R. 225).

But from the dicta in the latter case it would seem that cases might arise when the issue of such a warrant would be justified if it could be shown that the non-attendance of the defendant was part of a deliberate attempt to impede the course of justice.

### (4) NON-APPEARANCE OF INFORMANT

Sect. 13 of the Summary Jurisdiction Act, 1848, provides that if the defendant appears at the time and place appointed by the summons, and the informant does not do so, the justices must dismiss the summons or information unless they think it right for some reason to adjourn the hearing. If the bench offers to adjourn the case, but the offer is declined, the defendant cannot afterwards question the proceedings as irregular (*May v. Beeley* (1910), 74 J. P. 111).

## (B) CONVICTIONS

Convictions must be certain, as certain as an indictment (*R. v. Pain* (1826), 7 D. & R. 678). They must specify exactly what the offence is for which the offender has been convicted, and must specify one offence only (see *R. v. Wells* (1904), 68 J. P. 392, and *ante*, p. 76). As to exactness, the case of *Smith v. Moody*, [1903] 1 K. B. 56, should be noticed.

**(C) APPEALS****(1) TO QUARTER SESSIONS**

The Motor Car Act of 1903 allows an appeal to Quarter Sessions whenever a defendant has been fined a sum exceeding twenty shillings, and an appeal is also allowed against an order under sect. 4 (4) of the Act declaring a person disqualified for holding a licence. An order suspending a licence is not one against which the defendant can appeal, and though a fine and costs may together come to more than twenty shillings, yet if the fine itself be less than that sum there is no appeal (*Ex parte Novis*, [1905] 2 K. B. 456).

In the case of *Davey v. Bennett* (1905), 69 J. P. 200, it was held that no appeal lay from a conviction for not complying with the requirements of the Motor Cars (Use and Construction) Order, 1904, and similar orders (see also *Steer v. Bennett* (1903), 67 J. P. 112). But the later cases of *R. v. Gill* (1909), 73 J. P. 290, and *Willingale v. Norris* (1908), 7 L. G. R. 76, make it clear that such offences are offences against the Act of 1903, and seem to show that the earlier decisions must be regarded as erroneous.

When an appeal lies to Quarter Sessions it must be made to the next practicable Court of General or Quarter Sessions (*m*) for the borough or county in which the conviction has taken place; and it is further provided (*n*) that fourteen clear days' notice of appeal at least shall be given. "Clear days" means that fourteen days must elapse between the day on which the notice is served and the day on which the Sessions first sit (*o*). If then notice cannot be given so as to satisfy this provision between the day of the notice and the first day of the Sessions, the next Sessions are not the next practicable. And it has been held that an appellant is entitled to reasonable time in which to consider whether he will appeal or not (*p*); so

(*m*) Summary Jurisdiction Act, 1879, sect. 31 (1).

(*n*) By sect. 1 of the Quarter Sessions Procedure Act, 1849 (12 & 13 Vict. c. 45).

(*o*) *R. v. Middlesex JJ.* (1845), 2 N. S. C. 73.

(*p*) See *R. v. Surrey JJ.* (1880), 6 Q. B. D. p. 100, where the question of time for appeals is fully considered.

that unless an appellant has such time in addition to the fourteen days, the next Sessions are not the next practicable (*R. v. Surrey JJ.* (1880), 6 Q. B. D. 100; *R. v. Middlesex JJ.* (1888), 32 Sol. Jo. 221).

By sect. 31 (2) of the Summary Jurisdiction Act, 1879, the appellant has seven days, but no more, for serving his notice of appeal. But if it be shown that there is really good cause for delay, an appeal may be entered and respited for a longer time (*q*).

Sect. 31 (2) of the Summary Jurisdiction Act, 1879, requires that the appellant shall give notice, which must be in writing and signed by the appellant or his agent, to two persons. The first is the "other party." In motor car appeals there is no other party as there is in the cases of a bastardy or a rating appeal. The "other party," if any, is the informant. It is suggested that, as a precaution, a written notice should be sent registered (*r*) and addressed to the chief constable of the county or borough police, or the Commissioner of City or Metropolitan Police.

The second person to whom notice of appeal is to be sent is the clerk to the justices who convicted. This need only be addressed to the clerk, and need not be addressed or sent to each or any of the convicting justices (*s*). Care must be taken to see that the clerk receives the notice, either by sending it in a registered (*t*) envelope, or by delivering it to the clerk in person.

The notices must be accompanied by a statement of the general grounds of appeal. These grounds need not state the reasons for the appeal so accurately as if they were being placed in a pleading; the Court of Sessions is the exclusive judge of their sufficiency (*R. v. Durham JJ.* (1891), 55 J. P. 277). But an appellant is tied down by his notice of appeal to the grounds which he gives in it; and the Quarter Sessions cannot quash a conviction upon any ground other than one of those stated in the grounds

(*q*) *R. v. Thackwell* (1825), 3 D. & R. (Mag.) 337.

(*r*) Summary Jurisdiction Act, 1879, sect. 31 (7).

(*s*) *R. v. Essex JJ.*, [1892] 1 Q. B. 491.

(*t*) Summary Jurisdiction Act, 1879, sect. 31 (7).

of appeal (*u*). Care should therefore be taken to draw the grounds of appeal with sufficient width to cover all the evidence which it is desired to offer in support of the appeal.

### *Recognizance*

The appellant is required to enter into a recognizance to appear and prosecute his appeal (S.J.A., 1879, s. 31 (3)).

The recognizance may be entered into before any court of summary jurisdiction, whether acting for the same county as the court whose conviction is appealed against or not (*x*). It must be entered into within three days of giving the notice of appeal. This excludes the first but includes the last day and includes Sundays (*Peacock v. R.* (1858), 4 C. B., N. S. 264). And it must be of such amount as may be prescribed by the court before which it is given. The sum must not be fixed or the recognizance entered into before notice of appeal is given (*R. v. Anglesey JJ.*, [1892] 2 Q. B. 29; *R. v. Cheshire JJ.* (1896), 60 J. P. 585).

The appeal must in all cases be entered with the Clerk of the Peace of the court or Quarter Sessions or borough wherein it is to be heard. The practice of different Quarter Sessions varies as to the time within which appeals must be entered, and those who desire to appeal should therefore take steps, by applying to the Clerk of the Peace for the county or borough, to find out when the appeal must be entered. The rules of practice of Quarter Sessions are within the discretion of Quarter Sessions, and the High Court does not interfere with them except in cases of unreasonableness (*y*), or where they amount to the imposition of an additional condition upon appellants (*z*).

### (2) STATING A CASE

The right to apply for justices to state a special case is given by S.J.A., 1857, s. 2., and S.J.A., 1879, s. 33, to those who are aggrieved on the ground either that a

(*u*) *R. v. Boulbee* (1836), 4 A. & E. 498.

(*x*) *R. v. Durham JJ.*, [1895] 1 Q. B. 801.

(*y*) *R. v. Montgomery JJ.* (1845), 3 D. & L. 119.

(*z*) *R. v. Pawlett* (1873), L. R. 8 Q. B. 491.

conviction is erroneous in point of law, or that it is in excess of jurisdiction. The application must be made in writing, and a copy of it left with the clerk of the court; and it may be made at any time "within seven clear days of the date of the proceeding to be questioned" (*a*). The applicant must also leave with the clerk a copy of the application for each of the convicting justices, and it is the clerk's duty to forward it to each of them (*b*).

The Act of 1879 only amends procedure with regard to the statement of a case; it is to be read with the Summary Jurisdiction Act, 1857 (*c*); and as by sect. 2 of that Act the right to have a case stated by justices is granted to "any party to the proceedings," the informant in a summons may apply to have one stated if the summons is dismissed (*Stokes v. Mitcheson*, [1902] 1 K. B. 857; *Davys v. Douglas* (1858), 28 L. J. 193).

The case must be stated within three calendar months after the application has been made (*d*), and after the recognizance required by the Act of 1857 (*e*) has been entered into. The case must state every question of law on which it is desired to have the opinion of the High Court, and must also state the facts upon which these questions of law arise. Care should be taken to insert every fact which goes to compose the situation in which the point of law has arisen. Cases stated are frequently abortive because the justices do not find with sufficient clearness, or at all, the facts of the case. The magistrates should state what they conclude to be the facts, and not the evidence upon which they have ascertained them (*f*). If

(*a*) Summary Jurisdiction Rules, 1915, rule 52; see *R. v. Woodcock*, [1907] 2 K. B. 104. If the decision is given on Jan. 1, the application must be made not later than Jan. 9. The expression "within seven clear days" is odd, but we assume it to mean something more than "within seven days." It would be safer, however, to apply on or before Jan. 8, so as to leave no doubt. Sundays count as days. See *Peacock v. R.* (1858), 27 L. J. C. P. 224; *Wynne v. Ronaldson* (1865), 12 L. T. 711. (*b*) S. J. Rules, 1915, rule 52.

(*c*) 20 & 21 Vict. c. 43. See the Act of 1879, sect. 33 (2).

(*d*) S. J. Rules, 1915, rule 52.

(*e*) Summary Jurisdiction Act, 1857, sect. 2. The justices who take it determine the amount.

(*f*) *Bishop v. Toler* (1895), 65 L. J. M. C. 1, 3; *Betts v. Stevens* (1910), 73 J. P. 486.

it does not state the facts with sufficient clearness to enable the judges to lay down the law on the questions submitted, it will be sent back for amendment, and the court will decline to hear a case so stated that the judgment will not finally dispose of it (*R. v. St. Giles* (1883), 47 J. P. 756). And if the view of the justices as to the law is not made manifest by the fact that they convicted or acquitted, the case should state what view the magistrates took of the law as well as what facts they took into consideration in applying their view of the law. All these points are necessary, in order that a "clean" question of law, or more than one, may be placed before the Divisional Court for determination.

The court will rely upon the justices for the facts, and this even if one of the parties disputes that the facts are correctly stated, unless the case is defective on the face of it (*Musther v. Musther* (1894), 58 J. P. 53).

The case must be divided into paragraphs, which should be confined, as nearly as possible, to the distinct portions of the subject. All the justices who adjudicated must sign the case. They may refuse to state one if they think the application frivolous, and certify accordingly (S.J.A., 1857, s. 4). But if they do so, the appellant may apply for a rule directed to the justices, and also to the other party, to show cause why it should not be stated. They must not state a case where they have adjudicated on a point already settled by a High Court decision (*R. v. Shiel* (1900), 82 L. T. 587; see also *R. v. Bell* (1899), 15 T. L. R. 487).

When the appellant receives the case, he must, within three days, transmit it to the court named in his application, but must, before he does so, send a copy of the case to the other party to the proceeding which is questioned, with a notice in writing of his appeal. He must not fail to send both case and notice to the respondent, otherwise his appeal cannot be heard (*g*). Service on the attorney

(*g*) *Rust v. St. Botolph's, Bishopsgate* (1906), 94 L. T. 575; *Foss v. Best*, [1906] 2 K. B. 105. He must also, two days before hearing, leave three copies of the case and documents at the Crown Office. These must be marked simply "For the use of the Judges" (C. O. Rules, 1906, r. 133).

to the respondent, however, will suffice if the respondent cannot be found (*Gloucester Local Board v. Chandler* (1863), 32 L. J. 66; *Anderson v. Reid* (1902), 66 J. P. 564; *Teddington Urban Council v. Vile* (1906), 70 J. P. 381; *Wills & Sons v. McSherry*, [1913] 1 K. B. 20). The appellant must lodge the case stated at the Crown Office before 4 P.M. on the third day after receiving it. This rule is imperative, and has been enforced with great strictness. It is not enough to start the case on its way within three days. It must be at the Crown Office or in the building on the third day (*h*), unless the Crown Office is closed during all the three days (*i*); and the three days are cut down to two if one of them happens to be a Sunday (*k*).

Justices cannot state a case to determine their jurisdiction where there has been no hearing of an information (*Wakefield v. West Riding Railway Co.* (1866), 30 J. P. 628); but they may state a case although they have declined jurisdiction (*Muir v. Hore* (1877), 41 J. P. 471).

When the case comes on one counsel is heard on each side, and the appellant begins and replies. The justices are not entitled to be heard, but the Court will sometimes hear counsel on their behalf as *amicus curiæ*.

In *Heywood v. Whitehead* (*l*) the respondent (who had been acquitted at petty sessions) did not appear to argue on a case stated, but the justices did and were allowed to argue in favour of their action in acquitting. The case was sent back with orders to convict, and the justices were ordered to pay the costs of the appellant—a superintendent of police. Under sect. 6 of the Summary Jurisdiction Act, 1857, the general rule is that justices who state and deliver a case pursuant to that Act cannot have costs given against them. Costs are in the discretion of the court, but usually follow the event.

(*h*) *Aspinall v. Sutton* (1894), 2 Q. B. 349; *Gloucester Local Board v. Chandler* (1863), 32 L. J. 66; *Holland v. Peacock*, [1912] 1 K. B. 154.

(*i*) This was the case in *Mayer v. Harding* (1867), L. R. 2 Q. B. 410.

(*k*) *Pennell v. Churchwardens of Uxbridge* (1862), 31 L. J. M. C. 92.

(*l*) (1897) 76 L. T. 781.

### (3) MANDAMUS, CERTIORARI AND PROHIBITION

The exercise of control over magistrates and other inferior tribunals by the High Court is sought and obtained by *mandamus*, *certiorari* or prohibition, as the case may be.

By *mandamus* an order can be obtained calling upon the inferior tribunal to do some act or exercise some jurisdiction if it is declining to perform a duty so to do.

Not infrequently it is in this way that the existence of such a duty is tested.

By *certiorari* an order is obtained that something already done be brought up for revision by the High Court, where excess of jurisdiction or maladministration can be shown.

And by prohibition inferior tribunals can be restrained from acts which are beyond their power and jurisdiction, and the question of the extent of their powers can so be raised.

It is altogether beyond the scope of this work to consider where these remedies apply or the procedure by which they are obtained, and those concerned are referred to Short and Mellor's "Crown Office Practice" and the other standard works that deal with these topics.

But it may be useful to observe that these special remedies are all discretionary, and that where another remedy or course of procedure is open that discretion will not be exercised in favour of the applicant (*R. v. Bermondsey* (1908), 99 L. T. 14; *Smith v. Chorley District Council*, [1897] 1 Q. B. 532, 678; *Davies v. Gas, Light & Coke Co.*, [1909] 1 Ch. 708).

### (D) BIAS OF JUSTICES

There have been cases in which motorists have endeavoured to have convictions set aside on the ground that they have not had an impartial hearing because of the prejudice of magistrates against mechanical traction, but there does not appear to be any reported case in which such endeavours have been successful.

No doubt where it can be shown that there has been a real denial of justice the conviction will be quashed, but the

extent to which the court will require to be satisfied is shown by the case of *Ex parte Wilder* (1902), 60 J. P. 761, where it was held to be insufficient to prove that a justice had said at the hearing that it would be "a good thing if the motor car industry were destroyed" (see *R. v. Ferguson* (1890), 54 J. P. 101; *R. v. Taylor* (1898), 62 J. P. 67; *R. v. Sparks* (1909), 73 J. P. 485; *Eckersley v. Mersey Harbour Board*, [1894] 2 Q. B. 671; *R. v. London JJ.* (1908), 6 L. G. R. 327; *R. v. Tyrone JJ.*, [1909] 2 Ir. R. 768; *R. v. Queen's County JJ.*, [1908] 2 Ir. R. 285).

## CHAPTER VI

### GARAGES, REPAIRERS AND STORAGE OF PETROLEUM

#### (A) RIGHTS AND DUTIES OF GARAGE PROPRIETORS.

- (1) Duty of Care.
- (2) Breach of Contract to Garage.
- (3) Lien upon Garaged Car.

#### (B) RIGHTS AND DUTIES OF REPAIRERS.

- (1) Generally.
- (2) Repairers' Lien.

- (3) Injury to Vehicle through Negligence of Third Party.

#### (C) STORAGE OF PETROLEUM.

- (1) Generally.
- (2) Provisions of Act of 1871.
- (3) Provisions of Act of 1896 and Regulations thereunder.

### (A) RIGHTS AND DUTIES OF GARAGE PROPRIETORS

#### (1) DUTY OF CARE

THE duty of the proprietor of a garage who accepts payment for affording storage for motor cars and locomotives is to use ordinary care to secure the safety of such vehicles.

What is a proper degree of care is a question of fact, and depends upon the circumstances in each case.

But it is clear that anyone undertaking to garage cars for reward must see to it that the premises used by him are suitable for the purpose, and it will afford no answer by him to a claim for damages that the customer could have seen for himself what the defects in the premises were (*Brabant v. King*, [1895] A.C. 632; *Searle v. Laverick* (1874), 9 Q. B. 122).

It is suggested in "Wyatt Paine on Bailments" that, if a bailee knows that a particular course of action is likely to endanger the safety of property deposited with him, for reward, and does not take reasonable precautions accordingly, this amounts to legal negligence and will render him liable in damages if injury should result.

Professional garage proprietors would undoubtedly be expected by the courts to be acquainted with what would endanger the vehicles that they are in the habit of accepting for storage in the course of their business.

The duty of proper care extends to the reasonable

protection of the vehicle and its accessories against theft, and it is evidence of the want of due care if the protection afforded is less than that afforded to the proprietor's own property (*Clarke v. Earnshaw* (1818), Gow. 30).

This duty also extends to seeing that the employees of the proprietor do not so act as to expose the vehicle to injury or destruction by fire. Where an employee, by smoking and dropping a lighted match while handling petrol and oil in a garage, originated a fire, the owner of a vehicle so destroyed successfully claimed its value from the garage proprietor (*Jefferson v. Derbyshire Farmers, Ltd.*, [1921] 2 K. B. 281. See also *Dominion Natural Gas Co., Ltd. v. Collins*, [1909] A. C. 640, and *Musgrove v. Pandelis*, [1919] 2 K. B. 43).

If injury does occur to a garaged vehicle, the onus of accounting for the injury and proving due care would seem to be upon the garage proprietor (*Wiehe v. Dennis Brothers* (1913), 29 T. L. R. 250).

A garage proprietor can, by express contract, cut down or wholly contract himself out of such liability (*Rosin Import Co. v. Jacobs* (1910), 26 T. L. R. 259; *Cordey v. Cardiff Pure Ice Co., Ltd.* (1903), 88 L. T. 192; *Rutter v. Palmer*, [1922] 2 K. B. 87).

An innkeeper, when garaging a vehicle for a guest in his inn (as he is bound to do if required (*Mulliner v. Florence* (1878), 3 Q. B. D. 484)), is an insurer of its safety (*Robins & Co. v. Gray*, [1895] 2 Q. B. 501). And this whether he keeps it on his own premises or has to find outside accommodation for it (*Jones v. Tyler* (1834), 1 A. & E. 522; *Day v. Bather* (1863), 2 H. & C. 14). So that he is liable for the injury or loss of the vehicle in all cases where he cannot prove that it was directly due to the owner's own negligence or to his refusal to permit the innkeeper to take such precautions as he desired to do.

## (2) BREACH OF CONTRACT TO GARAGE

If a garage proprietor having contracted to supply a garage fails to do so, with the consequence that the vehicle

concerned is damaged for want of proper shelter, it cannot be doubted that he would be liable for such damage (*McMahon v. Field* (1881), 7 Q. B. D. 591; *Seton v. Lafone* (1887), 19 Q. B. D. 68). So if he garages the vehicle in a place other than that contemplated by the contract he will be liable for damage resulting from this breach of contract.

### (3) LIEN UPON GARAGED CAR

A mere garage-proprietor does not, by the deposit of a vehicle with him for storage, acquire any lien upon the vehicle for his charges (*Judson v. Etheridge* (1833), 1 C. & M. 743; *Hatton v. The Car Maintenance Co., Ltd.*, [1915] 1 Ch. 621). If the deposit is also for the purposes of repair, he may as a repairer acquire a lien (as to which see *post*, p. 110). If he is an innkeeper, who garages cars for the guests coming to his inn, the vehicles so garaged will be covered by his innkeeper's lien (*Chesham Automobile Supply Ltd. v. Beresford Hotel (Birchington), Ltd.* (1913) 29 T. L. R. 584).

## (B) RIGHTS AND DUTIES OF REPAIRERS

### (1) GENERALLY

The duty of a repairer, so far as the safe storage of vehicles entrusted to him for repair is concerned, is that of a garage proprietor, as to which see *supra*, p. 107.

As regards the execution of the repairs, it is his duty, as one holding himself out as a person executing such repairs for reward, to exercise the necessary skill, and he impliedly warrants that he possesses such skill and knowledge as are requisite for the business which he undertakes.

In many cases the owner of the vehicle relies upon such skill and knowledge in accepting the advice of the repairer as to the extent and nature of the repairs required, and in such cases the repairer is responsible for the advice being such as is proper for a skilled repairer to give.

Contracts for repairs are personal contracts, and when repair work is entrusted to a particular repairer the

presumption is that it is so entrusted because of the reputed skill of the repairer, and for this reason the customer is not bound to permit the work to be carried out by any other repairer, even if his qualifications are as great or greater (*Robson v. Drummond* (1831), 2 B. & Ad. 303; *British Wagon Co. v. Lea* (1880), 5 Q. B. D. 149).

Contracts to execute repairs may be entire contracts or may be divisible. If the contract is for a specified piece of work or to do all the work necessary to put the vehicle into thorough mechanical repair or running order, that will be an entire contract, and no payment can be claimed until the whole is performed, unless there be an express agreement for payment on progress certificates or by instalments. If, in such a case, the work were abandoned before completion, the repairer would have no claim for the part performed, unless the owner had himself made completion impossible. In a divisible contract, on the other hand, each part, as performed, founds a right to payment for such part.

As to the division of contracts into entire and divisible contracts, and the cases with regard thereto, reference must be made to the authorities dealing with the general law of contract.

The breach of a contract to repair gives rise to a claim for damages, and it has been held that it is an element in such damages that the object cannot be used during the time that is occupied in replacing defective work (*Wilson v. General Iron Screw Collier Co.* (1877), 47 L. J. Q. B. 239).

## (2) REPAIRERS' LIEN

Repairers have a lien, for the cost of the repairs executed by them, upon any vehicle which they are duly authorised to repair (*Keene v. Thomas*, [1905] 1 K. B. 136, and *Green v. All Motors, Ltd.*, [1917] 1 K. B. 625).

Such a lien does not arise unless the person authorising the repairs is entitled so to authorise them and to hand over the vehicle to the repairers for the purpose (see *Pennington v. Reliance Motor Works, Ltd.* (1922), 38 T. L. R. 670).

Nor does it arise until repairs contracted for have been completed, unless the owner of the vehicle himself has made completion impossible (*Pinnock v. Harrison* (1838), 3 M. & W. 535).

Nor does it arise upon a mere contract of maintenance, where the duty undertaken is only to keep the condition of the car up to the existing standard and not to improve its condition (*Hatton v. The Car Maintenance Co. Ltd.* (1914), 30 T. L. R. 275).

But the lien of an innkeeper (as to which see *ante*, p. 109) will extend to cover the cost of repairs necessarily carried out, by him or to his order, for the purpose of taking a vehicle, upon which he has a lien, to a sale at which it is to be sold in pursuance of such lien (*Chesham Automobile Supply, Ltd. v. Beresford Hotel (Birchington), Ltd.* (1913), 29 T. L. R. 584).

### (3) INJURY TO VEHICLE THROUGH NEGLIGENCE OF THIRD PARTY

If a car, deposited with a repairer for repair, is injured by the negligence of a third party, either the owner of the vehicle or the repairer can sue such third party. And this is so, apparently, even in cases where the repairer could not be held liable to the owner for the damage so caused (*The Winkfield* [1902], P. 42; *Wellwood v. King, Ltd.*, [1921] 2 Ir. R. 274).

## (C) STORAGE OF PETROLEUM

### (1) GENERALLY

The storage of petroleum generally is regulated by the provisions of the Petroleum Acts, 1871 and 1879, but the storage and use of petroleum in connection with light locomotives and motor cars is governed by regulations issued under sect. 5 of the Locomotives on Highways Act, 1896, which to some extent take petroleum for this purpose out of the operation of the general Acts.

*Definitions*

Petroleum is defined by sect. 3 of the Act of 1871 as including any rock oil, Rangoon oil, Burmah oil, oil made from petroleum, coal, schist, shale, peat or other bituminous substance, and any products of petroleum or any of the above-mentioned oils, and by sect. 2 of the Petroleum Act, 1879, it is provided that the Act of 1871 shall apply to all petroleum so defined, provided that when tested in the manner set forth in Schedule I of the Act of 1879 it gives off an inflammable vapour at a temperature of less than 73° F. And by sect. 14 of the Act of 1871 the provisions of that Act may be extended to other substances by Order in Council, which has been done as regards calcium carbide by Order dated February 26, 1897, as amended by Order dated October 24, 1904.

It has been held that mixtures containing petroleum, which give off inflammable vapour under the prescribed test, are petroleum within the meaning of the Act (*London County Council v. Holzapfels Compositions Co., Ltd.* (1899), 68 L. J. Q. B. 886).

“Petroleum spirit” is defined in the Regulations issued under sect. 5 of the Locomotives on Highways Act, 1896, as the petroleum to which the Petroleum Act, 1871, applies, and any other petroleum which is on or in any light locomotive, or is being conveyed to or kept in any place on or in which there is any petroleum to which the Act of 1871 applies.

## (2) PROVISIONS OF ACT OF 1871

### (a) *Label on Vessels containing Petroleum*

When any petroleum (a) is kept at any place after a period of seven days has elapsed since it was imported, (b) is sent or conveyed by land or water between any two places in the United Kingdom, or (c) is sold or exposed for sale, the vessel containing it must have attached to it a label in conspicuous characters stating the description of the petroleum, with the addition of the words “highly inflammable” and the name and address in case (a) of the consignee or owner, in case (b), of the sender or, in

case (c), of the vendor. The penalty for non-observance of these regulations is a fine not exceeding £5 and forfeiture of the petroleum and the vessel containing it (section 6).

*(b) Licence to Keep*

Nobody is permitted to keep petroleum without a licence from the proper authority, except petroleum which is kept for private use or for sale, if it is kept in glass, earthenware or metal containers securely stopped and holding not more than a pint each, and if the aggregate amount so kept does not exceed three gallons in all. The penalty for contravention of this provision is a fine not exceeding £20 a day for each day during which the spirit is kept and forfeiture of the spirit and the vessel containing it (section 7).

Licences under this section can be granted by the Lord Mayor and Aldermen in the City of London, by the Metropolitan Board of Works in the Metropolis other than the City, in any English borough by the borough council, or in a county district by the district council (section 8 as amended by Local Government Act, 1894, ss. 27 and 32).

Licences may be granted for a limited time and subject to renewal or not, and may contain such conditions as to the mode of storage, the nature and situation of the premises in which, and the nature of the goods with which, the spirit may be stored, the facilities for testing the spirit, and the mode of carrying it within the district of the licensing authority, and such general conditions as to the safe keeping of the spirit as the authority think expedient.

The authority may make a charge of not more than 5s. for the licence, and any licensee violating any of the conditions of the licence shall be deemed to be an unlicensed person (section 9).

*(c) Appeal against Refusal of or Conditions inserted  
in Licence*

If an application for a licence is refused or the authority propose to insert in the licence conditions with which the

applicant is dissatisfied, he can demand from the authority a certificate in writing of the grounds on which they have refused or attached conditions to the granting of the licence, and can within ten days of receiving the certificate appeal to the Secretary of State, who can deal with the matter, and can after due enquiry issue a licence if he thinks fit to do so and on such conditions as he thinks proper (section 10).

*(d) Provision for Testing Spirit*

Any duly authorised officer of the authority may purchase petroleum from any dealer and inspect any place where or vessels in which he keeps petroleum, and may cause the samples taken to be tested after giving written notice to the dealer of his intention to do so.

The dealer, if he wishes, may attend or send a representative to witness the test. If the test shows that the petroleum is within the Act, a certificate of the officer to that effect is receivable as evidence in any proceedings, but its accuracy may be disputed at the hearing.

The expenses of the testing are deemed to be part of the costs of any proceedings which result in a conviction and are recoverable from the convicted person accordingly (section 11). Any dealer obstructing such officer or refusing him information is liable to a penalty not exceeding £20 (section 12).

*(e) Proceedings under the Act*

Prosecutions may be instituted for all offences under the Act before a Court of Summary Jurisdiction, but no such Court may impose any penalty exceeding £50, and no conviction or order under the Act can be quashed for want of form or be removed, by *certiorari* or otherwise, into any superior Court (section 15).

(3) LOCOMOTIVES ON HIGHWAYS ACT, 1896, AND  
REGULATIONS THEREUNDER

By sect. 5 of the Act of 1896 the keeping and use of petroleum or other inflammable liquid or fuel for the

purpose of light locomotives is made subject to regulations which shall have effect notwithstanding anything in the Petroleum Acts.

Such regulations were made on July 31, 1907, which repealed all earlier regulations and exempted petroleum for the purpose of light locomotives from the operation of the Petroleum Acts to the extent therein stated (see *post*, p. 304).

These regulations entirely exempted from the operation of the Petroleum Acts all petroleum spirit kept for the purpose of or being used on light locomotives by order of a Government Department, and such spirit when kept by a private individual if he conforms to the regulations.

The regulations have no application to any spirit kept wholly for sale. Nor do they apply to spirit kept partly for sale and partly for use on light locomotives except Regulations 13 and 14, which are applicable in that case.

If the person keeping petroleum spirit for the purpose of a light locomotive has applied for and obtained a licence under the Petroleum Act, 1871, then only Regulations 8 to 15 apply, and these only so far as they are consistent with the conditions of the licence.

### *Storehouses*

In order to comply with the regulations the petroleum must be kept in "storehouses," which are defined as any room, building, coach-house, lean-to or other place in which petroleum spirit for the purpose of light locomotives is kept in pursuance of the regulations, including an open-air place of storage, so long as due precautions are taken to prevent unauthorised persons having access to it as required by Regulation 13.

By Regulation 4, where a storehouse forms part of or is attached to another building, and is not divided therefrom by a substantial partition or the partition is of a highly inflammable character or has any opening in it, the whole building shall be deemed a storehouse, and may not be

used as a dwelling or as a place where people assemble (see *Appleyard v. Bangham*, [1914] 1 K. B. 258).

A storehouse is also required to have a separate entrance from the open air distinct from that of any dwelling or place where people assemble (*ibid.*).

#### *Amount to be Stored*

The amount of petroleum spirit kept in any one storehouse at any one time must not exceed sixty gallons, whether on a light locomotive or not (Regulation 5). This includes the amount in the tank of a car (*Appleyard v. Bangham*, [1914] 1 K. B. 258).

Any two or more storehouses shall for this purpose be deemed one storehouse only, if they are in the same occupation and situate within twenty feet of one another (Regulation 6).

If petroleum spirit is kept in a storehouse which is within twenty feet of any other building or of any timber stack or inflammable goods belonging to the owner of the petroleum, he must give notice of the fact to the local authority and renew such notice each January and permit inspection. But this regulation does not apply to petroleum kept in a tank which forms part of a light locomotive (Regulation 7).

Every storehouse must be thoroughly ventilated (Regulation 8).

#### *Containers*

No petroleum spirit may be kept, used or conveyed except in metal containers so substantial as not to be liable to breakage or to become defective or insecure except by gross negligence or extraordinary accident. Such containers must be constructed to prevent leakage of liquid or vapour from them (Regulation 9).

Such containers, unless they form part of a light locomotive, must bear the words "petroleum spirit, highly inflammable," conspicuously and indelibly stamped or worked thereon or on a metallic or enamelled label attached to them, and their capacity must not exceed two gallons.

except (a) in any place of storage licensed under the Petroleum Act, 1871, where no such limitation of capacity is imposed by the licence, or (b) in a storehouse at least twenty feet from any other building or highway or public footpath, where measures have been taken to prevent the outflow of the spirit in case of fire, if it would be likely to endanger life or damage the property of others, in which case iron or steel drums or barrels of a capacity up to fifty gallons may be used, if notice is given to the authority and inspection allowed (Regulation 10, as amended by a regulation dated June 21, 1919).

Before a container is repaired all petroleum spirit and dangerous vapours must, as far as possible, be removed from it (Regulation 11).

### *Lights*

Containers may not be filled nor their contents exposed in the presence of fire or artificial light except such light as is not liable to ignite any inflammable vapour arising from the spirit, and no fire or light so liable to cause ignition must be brought so near any place where a container is being kept as to be dangerous (Regulation 12).

### *General*

Generally all due precautions must be taken to prevent accidents by fire or explosion and to prevent unauthorised persons having access to the spirit or containers, and all persons managing or employed in connection with any light locomotive shall abstain from any act tending to cause fire or explosion and which is not reasonably necessary, and shall prevent others from doing such an act (Regulation 13).

Petroleum spirit may not in any storehouse or place where a light locomotive is kept be used for any purpose other than as fuel for the engine of the locomotive, except that quantities not exceeding one gill may be used for cleaning the locomotive or repairing tyres if all due precautions are taken to ensure safety (Regulation 14).

The licence issued under the Petroleum Act, 1871, may contain an express term exempting the holder from the provisions of this regulation with regard to the licensed premises.

Petroleum spirit must not be permitted to escape into any inlet or drain communicating with a sewer (Regulation 15).

### *Penalties*

For the breach of any of these regulations the penalty is a fine not exceeding £10.

## CHAPTER VII

### HIRING AND LOAN OF VEHICLES, CARRIAGE OF GOODS AND PASSENGERS, AND HIRE-PURCHASE AGREEMENTS

- |   |   |
|---|---|
| <p>(A) <b>HIRING OF VEHICLES.</b></p> <ul style="list-style-type: none"><li>(1) Duties of Hirer.</li><li>(2) Duties of Lessor.</li><li>(3) Liability of Lessor.</li></ul> <p>(B) <b>GRATUITOUS LOAN OF VEHICLES.</b></p> <p>(C) <b>CARRIAGE OF GOODS.</b></p> <ul style="list-style-type: none"><li>(1) Carriers.</li><li>(2) Inherent Vice.</li><li>(3) Limitation of Liability by Notice or Contract.</li><li>(4) Statutory Rights, Duties and Liabilities of Carriers.</li><li>(5) Liability for Felonious Acts of Servants.</li><li>(6) Lien.</li></ul> | <p>(D) <b>CARRIAGE OF PASSENGERS.</b></p> <ul style="list-style-type: none"><li>(1) Duty of Carriers of Passengers.</li><li>(2) Limitation of Liability by Notice or Contract.</li><li>(3) Acceptance of Risk by Passenger.</li><li>(4) Contributory Negligence of Passenger.</li><li>(5) Doctrine of Identification.</li><li>(6) Duties of Passengers.</li></ul> <p>(E) <b>HIRE-PURCHASE AGREEMENTS.</b></p> |
|---|---|

#### (A) **HIRING OF VEHICLES**

##### (1) **DUTIES OF HIRER**

WHERE a man hires a vehicle his duty is to exercise the same care with regard to it as a prudent man would exercise with regard to a vehicle which was his own property (*Dean v. Keate* (1811), 3 Camp. 4; *Cooper v. Barton* (1810), 3 Camp. 5 n.; *Sanderson v. Collins*, [1904] 1 K. B. 628).

What in each particular case is such care is a question of fact, depending upon the particular circumstances.

The hirer will be responsible for injury occasioned to the vehicle by the failure to exercise such care, whether the failure is his own personal failure or the failure of his servants acting within the scope of their employment (*Coupé Company v. Maddick*, [1891] 2 Q. B. 413; *Sanderson v. Collins* (*supra*); and see *Cheshire v. Bailey*, [1905] 1 K. B. 237).

But if such care has been exercised, the risk of destruction or injury is the lessor's.

If injury has taken place in fact, the onus of establishing a *prima facie* case of negligence is upon the lessor (*Cooper v. Barton (supra)*).

The use to which the hired vehicle is put must be consistent with the purpose for which it was let and with the terms of the bargain. If a touring car, for example, were hired as such, it would not be open to the hirer to use it for racing or for the carriage of merchandise, nor would it be consistent with the bargain to use the car overloaded or to overdrive it.

If a hired vehicle develops some mechanical defect and the hirer take it to a recognised repairer for repairs, he is under no responsibility for any damage which may result from the insufficiency or unskilful character of the repairs, but, on the other hand, if the hirer himself should undertake the work, he will be liable if his want of knowledge or skill should result in injury (*Dean v. Keate (supra)*).

## (2) DUTIES OF LESSOR

It is the duty of anyone who lets out a vehicle for reward to see that the vehicle is as fit for the purpose for which it is let as care and skill can render it.

If injury results from a defect in the vehicle, it is for the lessor to prove that the defect was not such as any care or skill could have discovered. He is not an insurer against all defects discoverable or not, but he is an insurer against all defects which care and skill can guard against (*Christie v. Griggs* (1809), 2 Camp. 79; *Readhead v. Midland Railway Co.* (1869), L. R. 2 Q. B. 412; L. R. 4 Q. B. 379; *Hyman v. Nye* (1881), 6 Q. B. D. 685; *White v. Steadman* (1913), 29 T. L. R. 563).

If the vehicle is let under the charge of a driver supplied by the lessor, then the lessor is responsible to the hirer for the exercise of due skill and care and the due fulfilment of his duties by the driver, and must exercise due care in the selection of a suitable person to employ for such work

(*Abrahams v. Bullock* (1902), 18 T. L. R. 701). But he will not be liable for injury caused to the hirer by the criminal act of the driver outside the scope of his employment, unless it can be proved that the crime occurred through the negligence of the lessor (*Cheshire v. Bailey*, [1905] 1 K. B. 237).

### (3) LIABILITY OF LESSOR

The lessor is not liable for damage caused by the vehicle when under the control of the hirer (*Smith v. Bailey*, [1891] 2 Q. B. 403; *Doggett v. Waterloo Taxi-Cab Co., Ltd.* (1910), 26 T. L. R. 491; *Smith v. General Motor Cab Co., Ltd.* (1911), 27 T. L. R. 370).

But the lessor of hackney-carriages covered by the provisions of the London Hackney Carriage Act, 1843, is placed by that Act in a position of special responsibility towards the public, as to which see p. 184.

Whether the vehicle is under the control of the lessor or of the hirer is a question of fact. If the driver of the vehicle is the servant of the lessor and responsible to him for the conduct of it, the liability will be the lessor's (*Laugher v. Pointer* (1826), 5 B. & C. 547; *Quarman v. Burnett* (1840), 6 M. & W. 499; *Jones v. Liverpool Corporation* (1885), 14 Q. B. D. 890; *Brady v. Giles* (1835), 1 M. & Rob. 494).

But even if the driver is the servant of the lessor the hirer will be liable if in fact it is under his directions that the conduct of the vehicle has been (*McLaughlin v. Pryor* (1842), 4 M. & G. 48; *Perkins v. Stead* (1907), 23 T. L. R. 433; *Dewar v. Tasker & Sons* (1907), 23 T. L. R. 259).

### (B) GRATUITOUS LOAN OF VEHICLES

The gratuitous loan of vehicles is so frequent that it may be useful to deal quite briefly with the position and responsibilities to which it gives rise.

The loan, being gratuitous, can be terminated by the owner of the vehicle at any time, and the degree of care required by the law to be exercised by the bailee depends upon the degree to which the contract is for his benefit.

If the bailee has borrowed the car for his own benefit, he must exercise the same degree of care, at least, as a careful man would exercise with regard to his own vehicle, and, being under an obligation to return what he has borrowed in the same state as it was in when lent, he will be liable for negligence even if it is slight.

He will not, however, be liable for damage arising from no fault of his.

Such a bailment is personal to the bailee and confers upon him no authority to allow the vehicle to be used or driven by another.

Moreover, the authority can extend only to use for such purposes, express or implied, as the lender intended.

Thus a loan for ordinary use on the highway would not justify use upon a racing track or a mountain track, or the driving of the car under conditions, whether of speed or otherwise, that would subject it to special risk or exceptional strain.

On the other hand, the bailment may be mainly or entirely for the benefit of the lender, as, for example, where an owner requests a friend to give a trial run to a prospective purchaser.

In such a case as that the bailee would be liable only for the results of gross negligence.

But in every case the bailee impliedly warrants his skill to be sufficient for the conduct of the vehicle, and if he undertakes the conduct of it on the ground that he is a specially expert driver he must, at his peril, show the degree of skill which he has warranted himself to possess (*Coggs v. Bernard* (1704), 1 Sm. L. C. 173; *Wilson v. Brett* (1843), 11 M. & W. 113).

The lender of the vehicle is under no duty to the borrower except that he must not lead the borrower into a trap by lending him a vehicle which to his knowledge has concealed defects which may endanger the borrower (*Coughlin v. Gillison* (1899), 1 Q. B. 145; but see *Hutchins v. Maunder* (1920), 37 T. L. R. 72).

**(C) CARRIAGE OF GOODS****(1) CARRIERS**

Everybody, who is prepared to carry goods for reward for anyone who asks him, is a common carrier. The criterion is, whether he carries for particular persons only, or whether he carries for everyone (*a*).

A common carrier is an insurer of the goods he carries and is liable for their safe conveyance and delivery in any event, the act of God, the King's enemies, or inherent vice excepted. And this responsibility creates a warranty on the part of the carrier that the vehicle used for carrying the goods shall be made worthy and fit for the purpose (*b*). But a carrier is not liable for a pure accident which neither he nor his servant could avoid, provided the vehicle was properly fitted for a safe journey (*c*). He is bound to carry all goods presented to him for that purpose, provided he has room to take them (*d*), unless the owner of the goods will not declare their worth, or pay the price of the carriage (*e*).

The proprietor of a stage carriage is a common carrier of passengers' luggage, or goods carried for persons other than passengers (*Brooke v. Pickwick* (1827), 4 Bing. 218). But the proprietor of a hackney-carriage is not a common carrier of the passenger's luggage (*Ross v. Hill* (1846), 2 C. B. 877).

**(2) INHERENT VICE**

If damage to an article carried is caused by its own inherent vice, that exempts the carrier from responsibility in respect thereof. If a car is sent to a carrier for transmission, and, by reason of petrol being left in a leaking tank, a fire occurs whereby the car is destroyed, the loss would fall upon the owner alone (*f*). This rule, moreover,

(*a*) *Ingate v. Christie* (1850), 3 C. & K. 61; *Coggs v. Bernard* (1703), 2 Ld. Raym. 909.

(*b*) *Readhead v. Midland Railway Co.* (1869), L. R. 4 Q. B. 379.

(*c*) *Crofts v. Waterhouse* (1825), 3 Bing. 319.

(*d*) *Pickford v. Grand Junction Railway Co.* (1841), 8 M. & W. 372.

(*e*) *Ibid.*

(*f*) *Kendall v. London and South Western Railway Co.* (1872), L. R. 7 Ex. 373.

is not limited to cases in which the damage would have occurred even if the article had never been carried at all (*g*). And therefore it is submitted that if a car is packed in an insecure crate, which, on being hoisted up, falls to pieces and so causes damage to the car, the carrier, assuming proper care was used, would not be liable (*h*). If the goods consigned to a carrier are of a dangerous nature, it is the duty of the owner or consignor to give notice of their dangerous character, and if he does not, he alone is liable for the consequences, even to the extent of criminal liability (*i*). This common law liability is defined and extended by statute, notably by the Merchant Shipping Act, 1894 (*k*). A carrier and his servants must deal with the goods according to the orders given, and must, with regard to the goods, exercise all care that is necessary for their preservation. Accordingly a carrier, subject to the exceptions mentioned, is liable for theft of the goods which he is carrying, whether by his own servants or not (*l*).

A common carrier is not bound to carry goods of a nature other than he professes to carry (*m*).

### (3) LIMITATION OF LIABILITY BY NOTICE OR CONTRACT

Any limitation of liability, to be effective, must be brought to the mind of the consignor of the goods, and where a general notice is relied upon, the carrier must show that the customer had the terms of it sufficiently brought to his knowledge (*n*).

It is submitted that public notices of the kind mentioned will not exempt the carrier from liability for gross negligence. But it is open to the parties to enter into a special

(*g*) *Lister v. Lancashire and Yorkshire Railway Co.*, [1903] 1 K. B. 878.

(*h*) *Barbour v. South Eastern Railway Co.* (1876), 34 L. T. 67.

(*i*) *Brass v. Maitland* (1856), 6 E. & B. 470.

(*k*) (57 & 58 Vict. c. 60), sect. 446.

(*l*) *Shaw v. Great Western Railway Co.* (1894), 1 Q. B., per Wright, J., at p. 380.

(*m*) *Dickson v. Great Northern Railway Co.* (1886), 18 Q. B. D. 176, per Lindley, J., at p. 183.

(*n*) *Gouger v. Jolly* (1816), Holt, 317.

contract (o), whereby the carrier is to be exempted from all liability for any loss occasioned by his negligence or however caused, and it seems to be clear that such contract will be binding upon both parties (p). The special contract must, of course, be complete, and the mind of the consignor must be directed towards all the terms of the contract. Therefore he will not be bound by terms on the back of a document, to which his attention is not directed by reason of the apparent completeness of the contract upon the face of it (q).

#### (4) STATUTORY RIGHTS, DUTIES AND LIABILITIES OF CARRIERS

By sect. 1 of the Carriers Act, 1830, it is provided that no mail contractor, stage-coach proprietor, or other common carrier by land for hire shall be liable for the loss of or injury to articles of a certain description, when the value of such articles shall exceed the value of ten pounds, unless, at the time of delivery to the carrier, the value and nature of the articles shall have been declared, and an increased charge be paid, or agreed to be paid, in respect of the additional value thereof.

The description of articles given in the section embraces jewellery, precious stones, gold and silver, and all such manner of precious things whose value is in the inverse ratio to their bulk.

Section 4 of the Act provides that no public notice or declaration shall be deemed or construed to limit or in anywise affect the liability at common law of any such mail contractors, stage-coach proprietors, or other public common carriers, for or in respect of any articles or goods to be carried and conveyed by them, but that all and every

(o) *Smitton v. The Orient Steam Navigation Co., Limited* (1907), 96 L. T. 848; *Williams v. Midland Railway Co.*, [1908] 1 K. B. 252.

(p) *Price & Co. v. Union Lighterage Co.*, [1904] 1 K. B. 412, and see *Rosin and Turpentine Co. v. B. Jacob & Sons, Limited* (1909), 101 L. T. 56.

(q) *Henderson v. Stevenson* (1875), L. R. 2 H. L. Sc. 470; *Richardson v. Rowntree*, 1894] A. C. 217. See also *Marriott v. Foward*, [1909] 2 K. B. 987.

such mail contractors, stage-coach proprietors, and other common carriers as aforesaid shall be liable, as at the common law, to answer for the loss of or any injury to any articles and goods in respect whereof they may not be entitled to the benefit of this Act, *any public notice or declaration by them made and given contrary thereto, or in anywise limiting such liability, notwithstanding.*

The provisions of the above-mentioned section make a mere public declaration or announcement by a carrier that he will not be liable, etc., entirely of non-effect. But if such declaration or announcement be brought home to the mind of the customer (*r*), it ceases to be a mere declaration or announcement and becomes the basis of a *special contract*. By sect. 6 of the Carriers Act, 1830, it is provided that *special contracts* may be entered into between mail contractors, stage-coach proprietors, or common carriers and any other parties for the conveyance of goods and merchandise.

#### (5) LIABILITY FOR FELONIOUS ACTS OF SERVANTS

Nothing in the Carriers Act, 1830, shall be deemed to protect any mail contractor, stage-coach proprietor, or other common carrier for hire from liability to answer for loss of or injury to any goods or articles whatsoever arising from the felonious acts of any coachman, guard, book-keeper, porter, or other servant in his or their employ. This, however, applies only to those particular articles described in section 1, and "cannot be construed as a general enactment that common carriers by land are in all cases to be liable for theft by their servants" (*s*). A carrier is, of course, in all cases, answerable for every wrong committed by his servants within the scope of their employment, but he is not liable for their unauthorised and fraudulent acts committed for such servants' private ends outside their employment. See *Lloyd v. Grace, Smith & Co.* (1912), 28 T. L. R. 547.

(*r*) *Marriott v. Yeoward*, [1909] 2 K. B. 987 (*supra*, p. 125).

(*s*) *Shaw v. Great Western Railway Co.*, [1894] 1 Q. B. 373, *per* Wright, J., at p. 383 (*supra*, p. 124).

## (6) LIEN

A common carrier has a lien upon the goods which he carries, but he must not sell them (*t*).

## (D) CARRIAGE OF PASSENGERS

## (1) DUTY OF CARRIERS OF PASSENGERS

A carrier of passengers is not a common carrier or liable in respect of the passengers as a common carrier is liable in respect of goods. The duty of those undertaking to carry passengers for reward was carefully considered, after review of all the earlier authorities, in the case of *Readhead v. Midland Railway Co.* (1869), L. R. 2 Q. B. 412 ; L. R. 4 Q. B. 379.

It was there pointed out that the law had, from the earliest times, established a broad distinction between the liabilities of common carriers of goods and of carriers of passengers, and that carriers of passengers were not insurers of safety but were liable only if they failed to take due care (including in that term the use of skill and foresight) to carry their passengers safely.

The degree of care required of the carrier of passengers is, having due regard to the nature of the contract, a high one, and he is bound to use all vigilance to see that everything necessary for the safe conveyance of his passengers is in fit and proper order, and to safeguard his passengers against such dangers as may naturally be expected to arise (*Daniel v. Metropolitan Railway Co.* (1868), L. R. 3 C. P. 216).

The nature of the contract must be regarded in considering whether the duty of care has or has not been fulfilled in a particular case. It is not incumbent upon a carrier to take every possible precaution, as this would make it impossible for him to carry on his work in the ordinary way.

Thus a carrier of passengers is not liable for damage sustained by them, in consequence of a defect in the vehicle

(*t*) *Electric Supply Stores v. Gaywood* (1909), 100 L. T. 855.

which ordinarily careful inspection would not disclose, but would be liable if the defect were one which should have been so detected (*Bremner v. Williams* (1824), 1 C. & P. 414).

It is the duty of a carrier of passengers to carry the passenger upon the agreed journey with due care and diligence, and to afford him reasonable accommodation. There is no duty, however, to take extraordinary care of a passenger by reason of any unknown peculiarity then attaching to him (*Pounder v. North Eastern Railway Co.*, [1892] 1 Q. B. 385. See also *Cobb v. Great Western Railway Co.*, [1894] A. C. 419). It is therefore submitted that a motor omnibus company would not be liable for the spreading by a passenger of an infectious disease which the conductor had no reason to suspect, or for injury resulting to passengers from any act of a third person over whom the carrier has no control (*Daniel v. Metropolitan Railway Co.* (1871), L. R. 5 H. L. 45).

## (2) LIMITATION OF LIABILITY BY NOTICE OR CONTRACT

This duty may be limited by express contract between the parties to any extent, but when it is sought to limit it by conditions upon or purporting to be incorporated with the tickets, it must be shown that the conditions relied upon were effectively brought to the attention of the passenger so that they could properly be regarded as forming part of the contract made by him.

## (3) ACCEPTANCE OF RISK BY PASSENGER

A passenger, after electing to travel by a particular means, cannot complain of matters naturally incidental to traffic of that character, and if the means selected is naturally dangerous, the passenger will be held to have accepted the known risks and to have elected to submit himself to them (*Wing v. London General Omnibus Co., Ltd.*, [1909] 2 K. B. at p. 667; *Osborne v. London & North Western Railway Co.* (1888), 21 Q. B. D. 220).

## (4) CONTRIBUTORY NEGLIGENCE OF PASSENGER

If a passenger is, by reason of the negligence of the carrier or his servants, exposed to such danger that it is prudent for him to endeavour to save himself by jumping from the vehicle, the carrier will be liable for any injury that he may in consequence sustain (*Jones v. Boyce* (1816), 1 Stark, 493; *The City of Lincoln* (1889), 15 P. D. 15).

But if the dangerous conduct of the passenger is to avoid mere inconvenience, then the carrier will not be liable for the consequences resulting from it (*Adams v. Lancashire & Yorkshire Railway Co.* (1869), L. R. 4 C. P. 739).

## (5) DOCTRINE OF IDENTIFICATION

If a passenger, who is being carried for reward, is injured in consequence of the negligent management of another vehicle, he is not debarred from recovering damages from the owner of that vehicle because the driver of the vehicle in which he is being carried may also have been guilty of negligence or contributory negligence. The idea that the passenger was so legally identified with the vehicle in which he was being carried that his rights were no greater than those of the owners of the vehicle, although he had no control over and no responsibility, therefore, for the conduct of the vehicle, has been definitely rejected (*The Bernina* (1888), 13 App. Cas. 1; *Mathews v. London Street Tramways* (1888), 58 L. J. Q. B. 12; cf. *Torogood v. Bryan* (1849), 8 C. B. 115).

## (6) DUTIES OF PASSENGERS

Passengers are bound to observe the bye-laws of the carrier company in whose vehicles they travel, if such bye-laws are reasonable in every particular (*u*). But a carrier company has no right to lay hands upon a passenger and remove him from the vehicle because he fails to produce his ticket on demand and refuses to pay. The remedy is

(*u*) *Saunders v. South Eastern Railway Co.* (1880), 5 Q. B. D. 456.

by proceeding against him for the amount of the fare. But a bye-law which states that "each passenger shall show his ticket (if any) when required so to do to the conductor or any duly authorised servant of the company, and shall also when required so to do either deliver up his ticket or pay the fare legally demandable for the distance travelled over by such passenger," is binding upon a passenger, and it does not matter that there is no intention on the part of the passenger to defraud, for it is equally binding upon him even where he loses his ticket or throws it away through inadvertence (x).

### (E) HIRE-PURCHASE AGREEMENTS

Owing to the considerable volume of business now transacted, with regard to mechanically propelled vehicles, by means of the hire-purchase system, it seems desirable here to deal in outline with the main questions arising in this connection.

The main difficulties experienced by those dealing with vehicles in this way have arisen by reason of the possibility of the vehicles being so dealt with by the hirer, before the full amount of the instalments has been paid, that third parties are able to establish claims upon the vehicles which can defeat those of the owner.

The hirer, for example, may sell or pledge the vehicle to a third party, who takes it in good faith and without any notice of the hire-purchase contract, or he may render the vehicle subject to lien, or the vehicle may be seized in distress or in execution, or the hirer may become bankrupt and his trustee in bankruptcy may claim the vehicle.

In order to meet and to guard against these contingencies, forms of hire-purchase agreement have been evolved which to a considerable extent protect the trader against the pitfalls disclosed by the numerous decided cases.

In the first place it is now abundantly clear that no hire-purchase agreement should impose upon the hirer an

(x) *Hanks v. Bridgman*, [1896] 1 Q. B. 253.

obligation to complete the purchase of the vehicle. If it does so, the hirer at once becomes a person who has "agreed to buy" the vehicle, and, under the provisions of the Factors Act, 1889, and the Sale of Goods Act, 1893, he can, by sale or pledge, give a good title to an innocent third party (*Lee v. Butler*, [1893] 2 Q. B. 318; *Sale of Goods Act*, 1893, s. 25).

This difficulty can be avoided by drawing the contract in such a way that the hirer has only an option to purchase the vehicle and can terminate the contract at any time by returning the goods. By an adjustment of the figures, of course, this can be made to effect substantially the same purpose as a contract binding the hirer to complete the purchase (*Helby v. Matthews*, [1895] A. C. 471; *Payne v. Wilson*, [1895] 1 Q. B. 653).

The hirer, moreover, under such an agreement, having only an option to complete the purchase, is not the "true owner" of the vehicle within the meaning of the Bills of Sale Act, 1882, s. 5, and cannot therefore give a valid bill of sale over the vehicle (*Lewis v. Thomas*, [1919] 1 K. B. 319).

But the cases of *Belsize Motor Supply Co. v. Cox*, [1914] 1 K. B. 244, and *Whiteley v. Hilt*, [1918] 2 K. B. 808, demonstrate that for complete protection more is required than that the agreement should give merely an option. For such an option, in the absence of further provisions, in itself is a proprietary right over the vehicle belonging to the hirer, and, although he cannot pass the property in the vehicle to an innocent third party, he can pass this proprietary right of his own, and therefore, if he transfers the vehicle to such a third party, the owner of it cannot in an action for detinue recover the value of the vehicle but only the balance of the instalments payable by the third party in order to exercise the option now transferred to him. See also *British Berna Motor Lorries, Ltd. v. Inter-Transport Co., Ltd.* (1915), 31 T. L. R. 200.

This contingency can be met by inserting in the agreement an express condition against parting with possession of the vehicle and against assigning the option, and by

making the option one which endures only so long as those conditions are observed.

Whatever the provisions of the agreement are, and however little right the hirer may have to dispose of the vehicle, the lessor may, by estoppel, lose his right to challenge the title of an innocent third party if he, by standing by or by his actions, has led the third party to believe that he was getting a good title or has failed to acquaint him with its defects (*Gregg v. Wells* (1839), 10 A. & E. 90 ; *Freeman v. Cook* (1848), 2 Ex. 651 ; *Lewis v. Clay* (1898), 67 L. J. Q. B. 224).

But to give rise to such estoppel the facts must be such as render it unquestionably inequitable that the true owner should seek to set up his title against the third party, and it has been held that for the owner of a vehicle to permit the hirer to put his crest upon the coachwork is insufficient to give rise to such an estoppel (*Marner v. Banks* (1867), 17 L. T. 147).

Moreover, the hirer may give to a third party, by sale of the vehicle in market overt, a title which the true owner cannot defeat until the hirer has been prosecuted to conviction for the larceny of the vehicle (Sale of Goods Act, 1893, s. 24 (1)).

If the hirer sells or parts with the property in the vehicle before he has completed the instalments he is liable to prosecution for larceny as a bailee under Larceny Act, 1916 (*R. v. Wynn* (1887), 16 Cox C. C. 231 ; *R. v. Richmond* (1873), 12 Cox C. C. 495).

And a person taking such vehicle with knowledge of the facts is liable for receiving stolen property (*Payne v. Wilson*, [1895] 1 Q. B. 653).

But, if the hirer merely pledges the vehicle, the matter is less simple, because it must be shown that he intended permanently to deprive the owner of the property before a conviction for larceny can be obtained (*R. v. Wynn* (*supra*)).

If a vehicle, the subject of a hire-purchase agreement, is seized in execution, the owner can lodge a claim with

the sheriff or bailiff, and if the ownership is disputed the matter will be dealt with by interpleader proceedings.

As regards the case where the vehicle is taken by distress the matter is governed by the Law of Distress Amendment Act, 1908, s. 4 (1). This section appears to have been construed so as to exclude from the protection of the Statute all goods the subject of any hire-purchase agreement, and, if this is the correct construction, the owner appears to have no protection. But it is submitted that the Act was intended to exclude, by this section, only goods which the tenant had attempted to protect from distress by making them the subject of a hire-purchase agreement and not the goods of others which were in his possession under such agreements, and there are dicta which leave the point still open to argument (see *Hackney Furnishing Co. v. Watts*, [1912] 3 K. B. 225; *Jay's Furnishing Co. v. Brand & Co.*, [1914] 2 K. B. 136 and [1915] 1 K. B. 458 (where this point was raised, but the Court would not entertain it as it had not been raised at the original hearing)).

If the hirer becomes bankrupt, the owner runs the risk of losing the vehicle only if it is in the "order and disposition of the hirer in the way of his trade or business" within the meaning of the Bankruptcy Act, 1914, s. 38 (2) (c). In that case he will be left to prove in the bankruptcy and to take dividends with the other creditors (*In re Button*, [1907] 2 K. B. 180).

## CHAPTER VIII

### HIGHWAY LAW

- |   |   |
|---|---|
| (A) REPAIR.                                     | (8) Jurisdiction.   |
| (1) Standard of Repair.                         | (9) Joinder of Parties.                                   |
| (2) Level Crossings.                            | (10) Inspection and Particulars.                          |
| (3) Enforcement of Duty to Repair.              | (11) Amount Recoverable.                                  |
| (B) EXTRAORDINARY TRAFFIC.                      | (12) Agreement of Compromise.                             |
| (1) Certificate a Condition Precedent.          | (C) LIABILITY OF LOCAL AUTHORITIES FOR DAMAGE TO TRAFFIC. |
| (2) Execution of Repairs a Condition Precedent. | (D) HEDGES AND TREES PREJUDICING HIGHWAYS.                |
| (3) "Extraordinary Expenses."                   | (E) ANIMALS ON THE HIGHWAY.                               |
| (4) "Extraordinary Traffic."                    | (F) CLOSING OF ROADS TO MOTOR TRAFFIC.                    |
| (5) "By or in consequence of whose Order."      | (G) LOCOMOTIVES ON BRIDGES.                               |
| (6) Limitation of Actions.                      | (H) REGULATION OF TRAFFIC IN METROPOLIS.                  |
| (7) Public Authorities Protection Act, 1893.    |   |

IN this chapter we propose to touch upon certain phases of the law of highways which specially concern the owners and drivers of motor cars and locomotives. Highway law in general is a large and special subject, and has formed the subject of works of authority (*a*) which are familiar to all practising lawyers.

But it may be useful here to deal quite briefly with the general question of the repair of highways and, in considerable detail, with the subject of extraordinary traffic, and then to devote some space to a few other "highway" topics that are of particular interest and importance to all road users.

#### (A) REPAIR

In glancing briefly at the law relating to the repair of highways, the main questions which are of importance

(*a*) Glen on Highways, 1897; Pratt and Mackenzie on Highways, 1905.

to the owner of vehicles and the user of the roads, are the standard of repair which is required from those who are under the duty of maintaining the roads and the remedies that can be invoked if that standard is not maintained.

### (1) STANDARD OF REPAIR

The minimum of repair which is required by law may be stated in general terms to be such repair as is sufficient to make the road reasonably passable for the ordinary traffic upon it at all seasons of the year (see *per* Blackburn, J., in *R. v. High Halden* (1859), 1 F. & F. 678).

It will be seen that the standard requires for its application the ascertainment and consideration of what is the ordinary traffic upon the road, and that the standard is one which varies with the character of the traffic that is "ordinary" from time to time.

It is no answer for a highway authority to show that the road has been maintained in the condition in which it has always been, if that condition is in fact insufficient to enable the ordinary traffic—that is to say, the traffic which the authority ought to expect—to pass upon it (*R. v. High Halden* (*supra*); *A.-G. v. Scott*, [1905] 2 K. B. 161). Nor is it any answer that the road has not before been repaired or that it is a road upon which traffic is very infrequent (*R. v. Claxby* (1855), 24 L. J. Q. B. 223).

The authority is bound to provide for whatever traffic is in fact ordinary, and to meet the changes in the volume and character of traffic resulting from development as soon as the changed traffic can be said to have assumed the character of ordinary traffic upon the road (*Hemsworth Rural Council v. Micklethwaite* (1904), 2 L. G. R. 1084).

The subject of what is ordinary and what is extraordinary traffic is fully considered, with all the authorities, under the head of extraordinary traffic, *post*, p. 149 *et seq.*, and it is not therefore necessary further to consider this question here.

The duty to maintain the road involves necessarily the duty to maintain everything which may be necessary

to keep the road in repair. Thus, where it was found that a sea-wall and groynes were necessary to prevent a road running along the coast from being injured by inroads of the sea, the House of Lords held that the authority liable to maintain and repair the road must maintain and repair the wall and groynes (*b*). And highway authorities must remove snow and any other impediment or obstruction which comes upon a highway which they have to keep in repair (*c*). But where a road subsides—as, for instance, by the working of mines under it—the highway authority are not bound to restore it to its old level. All they need do is to see that it is put into such a condition that it is as convenient for traffic as it was before the subsidence (*d*).

The cases which we have mentioned show clearly what is the *minimum* of the duty of highway authorities, but there is no reason why highway authorities, whilst performing their duty to keep in repair, should not go beyond the minimum, and if they do so *bonâ fide* in the interests of the ratepayers the expenditure will be lawful, and cannot be questioned (*e*).

## (2) LEVEL CROSSINGS

With regard to level crossings over a railway, the law as to maintenance of highways on them is fairly clear. Where a highway crosses a railway on the level, the railway company is bound to keep the road in good repair in the actual area of intersection; and if the company has carried the railway over a road at a higher level than the road, and made sloping approaches at each side to bring up the road so that it can cross the railway on a level, the company must always repair the approaches. This is a common law liability which can be taken away only by *express* words in a statute. If the Act under which the railway

(*b*) *Sandgate U. D. C. v. Kent C. C.* (1898), 79 L. T. 425.

(*c*) As to removal of snow, see the *Guardians of Amesbury v. Wills JJ.* (1883), 10 Q. B. D. 480; and the judgments of Darling and Walton, JJ., in *Acton U. D. C. v. London United Tramways Co.* (1909), 73 J. P. 6.

(*d*) *Lodge Holes Colliery Co. v. Wednesbury Corporation*, [1908] A. C. 323.

(*e*) *R. v. Brighton, ex parte Shoesmith* (1907), 71 J. P. 265; cf. *A.-G. v. Blackpool Corporation* (1907), 71 J. P. 478.

is made is silent on the point of repair and maintenance, the duty remains (*f*). But the obligation of a railway company as to the construction of accommodation works (where land is taken for the line) has reference to, and is limited by, the user of the land *at the time the land is taken*, and those for whose benefit an agricultural level crossing is made by a railway may not authorise or permit its user for any purpose which substantially increases the burden of the easement (*g*). And if a statute prescribes that certain works shall be erected, *e.g.* a bridge of a certain character, the erection of such works fulfils the obligation and the burden is not increased because developments may make the works insufficient to accommodate modern traffic (*Sharpness Docks v. A.-G.*, [1915] A. C. 654; *A.-G. v. Great Northern Railway Co.* (1915), 84 L. J. Ch. 793).

### (3) ENFORCEMENT OF DUTY TO REPAIR

Having dealt very shortly with the duty of highway authorities as to repair of roads, we must next consider, also very shortly, the methods by which the performance of those duties may be enforced. This will involve the consideration of some difficult questions. In the first place, proceedings may be taken against a local authority summarily under sect. 94 of the Highway Act, 1835 (*h*). The urban and the rural district councils of England and Wales, having been subjected to the liabilities of Surveyors of Highways (*i*), the proceedings authorised by the Highway Acts may be commenced against them. This procedure is regulated by the sections referred to, and need not be discussed here, but it must be noted that this summary method applies only (*k*) where the liability to

(*f*) *Hertfordshire Council v. G. E. Rly. Co.*, [1909] 2 K. B. p. 403; see especially *per* Fletcher Moulton, L.J., *ibid.* 413.

(*g*) *Taff Vale Rly. v. Canning*, [1909] 2 Ch. 48.

(*h*) 5 & 6 Will. 4, amended by sects. 18 and 46 of the Highway Act, 1864.

(*i*) Urban councils by sect. 144 of the Public Health Act, 1875, and rural councils by sect. 25 of the Local Government Act, 1894.

(*k*) Highway Act, 1835, sect. 94; *Ex parte Bartlett* (1860), 30 L. J. M. C. 65.

repair is not disputed, and it is only a question of getting a district council to do what it is bound to do. If in answer to such a summons the defendant council disputes liability, the justice before whom the summons is heard must direct a bill of indictment to be preferred (and the necessary witnesses to be "subpœnaed," at the next Assizes or Quarter Sessions), for suffering the highway to be out of repair. The indictment should be preferred against the inhabitants of the parish in which the highway is if it be part of a rural or urban district (*l*). Thus, so lately as 1904 (*m*), the justices ordered an indictment to be preferred against the inhabitants of H, a parish in the rural district of S. The inhabitants sought to quash the order on the ground that the right procedure was to indict (under sect. 10 of the Highways and Locomotives Amendment Act, 1878, to be mentioned presently) the district council of S, whose funds were liable to bear the expense of the repairs; but a rule to bring up and quash was refused. The judges of the Divisional Court held that the provisions of the Act of 1835 were not impliedly repealed by the Act of 1878. This simple remedy for non-repair is therefore still at the disposal of the public. The punishment is a fine, as to the raising and payment of which the ninety-sixth section of the Highway Act, 1835, makes provision. This procedure is based upon the fact that the inhabitants of the parish are liable, in whole or in part, for the repair of highways within their district. Successive Acts of Parliament have created fresh machinery in the form of highway boards (*n*), urban sanitary authorities (*o*), corporations, urban or rural district councils, or county councils (*p*), by which this liability is to be discharged, but the liability remains in the case of all roads in respect of which it has not been wholly destroyed by statute.

(*l*) Highway Act, 1845, sect. 95.

(*m*) *R. v. Morse*, [1904] W. N. 114.

(*n*) Under the Highway Acts, 1835, 1862, 1864.

(*o*) Under the Public Health Act, 1875.

(*p*) Under the Municipal Corporations Act, 1835, Local Government Act, 1888, and Local Government Act, 1894.

It is a question whether total destruction of parochial liability has been effected as to main roads (*q*) by the operation of sect. 11 of the Local Government Act, 1888, which provided that after a certain day all main roads should be "wholly maintained and repaired by the council of the county in which the road is situate." If parochial liability has not been destroyed (*r*), an indictment against the inhabitants of the parish or parishes in which the road is situate might still be ordered under sect. 95 of the Highway Act, 1835, in the case of a main road. If this liability has been destroyed in the case of main roads, it is useless to attempt an indictment against the parish inhabitants, since it would be quashed, or the verdict set aside, even after a successful trial at Assizes (*s*). The indictment of the county council is the next alternative, and there is some doubt as to whether it would lie, even in case of a main road not in a borough or retained by a district council. The question as to whether it would do so was discussed, but not settled, in the case of the *Attorney-General v. Staffordshire County Council* (*t*). In that case Mr. Justice Joyce refused to grant a mandatory order saying what the county council were liable to do in the way of repairs, or even to make a declaration as to their liability to repair certain walls which adjoined and kept the neighbouring ground from falling on to a highway. But counsel for the defendants admitted (*u*) the duty to keep in repair, and admitted also that if this duty were neglected proceedings might be taken against the county council under sect. 94 of the Highway Act, 1835.

It seems to us quite clear that this procedure, so far as it will serve the purpose, is the right one to adopt. The ninety-fourth section of the Act of 1835 is wide enough to

(*q*) As to what is a main road, see 41 & 42 Vict. c. 77, sects. 13 and 15, and 51 & 52 Vict. c. 14, sect. 11.

(*r*) The learned editor of Pratt on Highways (1905, pp. 71, 72, 591) thinks it is destroyed, but seems uncertain. The compilers of Glen's Public Health (1906, vol. ii. p. 1773, *ad fin.*) also hesitate.

(*s*) On the analogy of *R. v. Mayor, etc., of Poole* (1887), 19 Q. B. D. 602.

(*t*) [1905] 1 Ch. 336, in which a great array of cases is marshalled.

(*u*) See their argument, [1905] 1 Ch. at p. 340.

penalise "any person, body politic or corporate chargeable with such repairs," and the ninety-fifth section directs the justices to order the indictment to be preferred "against the inhabitants of the parish or *the party named on such order*." But the jurisdiction of the justices under these sections exists only when it is not disputed that the road in question is a highway (*x*). If it is disputed, the justices must not adjudicate (*y*), and the informant must be left to his common law indictment (*z*) or to a complaint to the county council under sect. 10 of the Highways and Locomotives Amendment Act, 1878 (*a*). As it is absurd to suppose that a county council would prefer an indictment against itself, the common law indictment or proceedings by injunction or mandamus appear to be the only remedies left open to an informant when the county council disputes that the road in question is a highway at all. If in such cases there is no remedy by indictment of a county council (*b*), the objection to a *mandatory* injunction is removed, because the reason for withholding it is that an alternative remedy exists. On the whole it seems best, in the case where a county council dispute that a road is a highway, to take proceedings for this kind of injunction to compel the council to perform their duties of repair (*c*). If the county council argue that the proper remedy is by indictment of the parish or of the county council themselves, the informants should reply that either that remedy is gone, and is not of avail against a county council, or that, if it is given, the question whether it is given or not is so doubtful, and the remedy, if existing, is so inconvenient, that the Court ought not to refuse the alternative remedy of injunction. The complainants will be suing as members of the public, and they

(*x*) *R. v. Farrer* (1866), L. R. 1 Q. B. 558.

(*y*) Blackburn, J., *ibid.* p. 567.

(*z*) Meller, J., *ibid.* p. 568; but in this case it was proposed to indict not a county council but a highway board.

(*a*) Pratt and Mackenzie on Highways, 1905, p. 301.

(*b*) See p. 105. The council succeeds to the liability of the inhabitants by section 79 of the Local Government Act, 1888.

(*c*) An injunction may now, of course, take a positive and mandatory form (*Jackson v. Normanby, etc.*, [1899] 1 Ch. 438).

should, therefore, obtain the name and consent of the Attorney-General to such actions.

Where the body in default is not a county council, but an urban or rural district council, the procedure under sect. 10 of the Highways and Locomotives Amendment Act should be adopted. The persons aggrieved complain to the county council that an urban or rural district council have made default in repairing a highway for which such district council are responsible, and the county council, if satisfied by a report from their surveyor that there has been default, may take steps to have the work done, and may charge the defaulting authority with its cost (*d*). But the defaulting authority have power to refuse to do the work until their liability to repair the highway is determined by a jury, and if they ask for such a determination, the county council must either withdraw their order or send an indictment to the next Assizes for the county, at which the liability of the defaulting council will be tried. If they are found liable, then the order of the county council, which is suspended till the trial of the indictment, comes at once into force (*e*).

This is the most practical and convenient remedy in the case of district roads, but it may be that the county council refuse to put it in operation. It is in their discretion whether they will do so or not. If they refuse the complainant is thrown back on his common law remedy by indictment; but there is some doubt as to whether he should indict the district council, the parish council, or the inhabitants of the parish in which the road needs repair. In *R. v. The Mayor of Poole*, Lord Coleridge decided (*f*) that an indictment for non-repair would not lie against an urban sanitary authority. He did so upon the ground that the only liabilities placed on such an authority as successors to the inhabitants of parishes were those liabilities which, by the Highway Act, 1835, or any Act amending it, were

(*d*) As to details, see sect. 10 of the Act of 1878.

(*e*) As to procedure and costs, see the concluding portions of sect. 10 of the Act of 1878.

(*f*) [1887] 19 Q. B. D. 602, 609.

placed on "the inhabitants in vestry assembled" (g); and that the liability to indictment was not amongst these. In the case, therefore, of an urban or rural district council making default, and the county council refusing to use their powers under sect. 10 of the Highways and Locomotives Amendment Act, it is submitted that the complainant's only remedy is by common law indictment of the inhabitants of the parish in the urban district. In *R. v. Shipley Parish Council* (h), Mr. Justice Mathew decided that a parish council could not be indicted for non-repair, and that the bundle of duties and liabilities of the old vestry, which are transferred to parish councils by sect. 6 of the Local Government Act, 1894, does not contain a liability to be indicted. The learned judge seems to have thought that the rural district council might possibly be indictable; but as they are only saddled (i) with the duties and liabilities "*under the Highway Acts*," the decision in *R. v. The Mayor of Poole* must be taken to show that this is not the case. Our conclusion is that, in cases of non-repair of a road, whether in an urban or a rural district, the aggrieved person must either set the county council in motion under sect. 10 of the Highways and Locomotives Amendment Act, 1878, or, if he fails in this, must indict the inhabitants of the parish at common law.

Bridges are *prima facie* repairable by the county at large, and the liability on a county to repair them is the same as the old parish liability to repair a highway (k). It is a question of fact whether a structure is a bridge or not—a question of "construction and magnitude" (l). If it is so small as to be in effect part of the highway, it is repairable by those responsible for the repair of the highway (m). Bridges which are built by private persons cannot become repairable by the public unless they have been dedicated to and have been used by the public; and

(g) Public Health Act, 1875, sect. 144.

(h) (1897), 18 Cox C. C. 531.

(i) By sect. 144 of the Public Health Act, 1875, as applied to them by sect. 25 of the Local Government Act, 1894.

(k) *A.-G. v. West Riding of Yorkshire* (1903), 67 J. P. 173.

(l) *R. v. Lancaster* (1868), 32 J. P. 711.

(m) *R. v. Southampton* (1852), 18 Q. B. 841.

the County Bridges Act of 1803 (*n*) provided that a bridge so built should not become repairable by the county unless built under the direction of, or to the satisfaction of, the county surveyor. It is a question of fact for a jury whether the public have adopted a bridge built by a private person so as to make it repairable by the county (*o*). By the Local Government Act of 1888 the county councils were given all powers hitherto vested in the justices at Quarter Sessions with regard to bridges, and were authorised to take over or purchase existing bridges which were not county bridges, to erect and maintain new bridges, and to maintain and improve bridges taken over (*p*). Where a bridge becomes repairable by the county, the liability as to standard of repair is the same as that for highways; the county must keep the bridge in repair as it stands. The remedy is, now, by common law indictment of the county council. But there is no common law liability on a county to *widen* a bridge, however inadequate it may become owing to increase of traffic (*q*). The special enactments and orders concerning motor cars and locomotives on bridges are dealt with *post*, p. 167 *et seq.*

## (B) EXTRAORDINARY TRAFFIC

As pointed out in Chapter IV, locomotives, motor cars and other vehicles may amount to a nuisance on the highway and can then be dealt with accordingly, but it is not only by such an illegitimate use that special wear and damage may be caused to the roads, and the Legislature has recognised that weights which are excessive and traffic which is extraordinary, as compared with the ordinary weights and traffic upon a road, can be put upon it in the course of wholly lawful operations and has decided

(*n*) 43 Geo. 3, c. 59.

(*o*) *R. v. Southampton* (1887), 19 Q. B. D. 590. Public user and public utility are not quite the same thing; and those who desire to make out that a bridge has been adopted by the public must apparently prove both. See *per Mathew, J.*, at pp. 595, 596.

(*p*) 51 & 52 Vict. c. 41, sects. 3 and 6.

(*q*) *R. v. Devon* (1825), 4 B. & C. 670.

that in such cases the additional cost of repair so caused shall be borne, not by the general community, but by those putting the traffic on the road for their own purposes and advantage.

The relevant enactments are in England the Highways and Locomotives (Amendment) Act, 1878, s. 23, as amended and extended by the Locomotives Act, 1898, s. 12, and in Scotland and Ireland the Roads and Bridges (Scotland) Act, 1878, s. 57, and the Public Roads (Ireland) Act, 1911, respectively, both Acts being very similar to those operative in England.

The operation of the English statutes does not extend to the Metropolis nor to any part of a county to which the South Wales Highways Act (23 & 24 Vict. c 68) extends.

The Highways and Locomotives (Amendment) Act, 1878, s. 23, provides that :—

Where by a certificate of the surveyor it appears to the authority which is liable or has undertaken to repair any highway, whether a main road or not, that, having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway by reason of the damage caused by excessive weight passing along the same, or extraordinary traffic thereon, such authority may recover in a summary manner from any person by whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the Court having cognisance of the case to have been incurred by such authority by reason of the damage arising from such weight or traffic as aforesaid.

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with such authority as is mentioned in this section for the payment to them of a composition in respect of such weight or traffic, and thereupon the persons so paying the same shall not be subject to any proceedings under this section,

And the Locomotives Act, 1898, s. 12, provides that :

(1) Section twenty-three of the Highways and Locomotives (Amendment) Act, 1878 (which relates to the recovery of expenses of extraordinary traffic). shall be amended as follows :

- (a) Expenses under that section shall cease to be recoverable in a summary manner, but may be recovered if not exceeding two hundred and fifty pounds in the County Court, and if exceeding that sum in the High Court.
- (b) Proceedings for the recovery of any expenses incurred after the passing of this Act shall be commenced within twelve months of the time at which the damage has been done, or where the damage is the consequence of any particular building contract, or work extending over a long period, shall be commenced not later than six months after the completion of the contract or work.
- (c) There shall be substituted for the words " by whose order " the words " by or in consequence of whose order."

(2) Nothing in this section shall affect the prosecution and determination of any proceedings which have been commenced before this Act shall come into operation.

A great series of actions has been fought under these sections, partly because the sums involved in extraordinary traffic claims are often large, and partly because such claims can arise out of so great a variety of circumstances, and the wording of the statutes is such that it has proved difficult to determine what constituted excessive weight or extraordinary traffic for the purpose, and, when that was established, how to calculate the extraordinary expenses which were made recoverable. And well-known legal authors have devoted a great deal of consideration to these topics (*r*).

(*r*) See Pratt and Mackenzie on Highways, Glen's Public Health, Lumley's Public Health, and The Laws of England.

## (1) CERTIFICATE A CONDITION PRECEDENT

No action can be commenced by the authority under these provisions until they have received such a certificate as is called for thereby (*Chesterfield Rural Council v. Newton* (1904), 2 L. G. R. 45, and *Bromley Rural Council v. Chittenden* (1906), 70 J. P. 409).

Such a certificate can be given by whomsoever is in fact the surveyor to the authority, and will be a sufficient certificate even if there is some defect in the form of his appointment (*Lancaster v. Harlech Highway Board* (1888), 52 J. P. 805). But it would seem that a certificate will not be sufficient if it is given by a mere temporary surveyor who has not been accepted or appointed as the surveyor to the authority (*Lewis v. Weston-super-Mare Local Board* (1888), 40 Ch. D. 55).

It is not material to the validity of the certificate whether it is given by the surveyor on his own initiative or at the request of the authority (*Barnsley British Co-operative Society, Ltd. v. Worsborough Urban Council*, [1916] A. C. 291).

Nor is it essential that the certificate shall show that the surveyor has had regard, in preparing it, to the average expense of repairing highways in the neighbourhood (*Epsom Urban Council v. London County Council*, [1900] 2 Q. B. 751), or that the surveyor should in fact have taken such average expense into his consideration (*Milne & Co. v. Aberdeen District Committee* (1899), 2 F. 220, and *Highland Committee of Perth County Council v. Rattray*, [1913] S. C. 794), at any rate more particularly than is sufficient to satisfy him in general that extraordinary expenses have in fact been incurred (*Colchester Corporation v. Gepp* (1912), 10 L. G. R. 930).

And where more than one highway is involved it is not requisite that a separate certificate should be issued in respect of each, but a general certificate will be sufficient, and that although it does not give particulars or descriptions of the highways covered by it (*Wirral Highway Board v. Newell*, [1895] 1 Q. B. 827). The certificate is no evidence of the measure of damage (*Bromley Rural Council v. Chittenden* (1906), 70 J. P. 409).

## (2) EXECUTION OF REPAIRS A CONDITION PRECEDENT

Before the authority is in a position to commence an action under these provisions, it must not only have obtained the necessary certificate from its surveyor, but must also have executed the repairs. Any action brought before the repairs have been carried out will be dismissed as premature, and the surveyor cannot properly issue his certificate until the repairs have been done (*Little Hulton Urban Council v. Jackson* (1904), 2 L. G. R. 986).

## (3) "EXTRAORDINARY EXPENSES"

The onus of proving that the expenses which have been incurred are "extraordinary" is upon the authority, and the standard by which their evidence must be framed and tested is the average expense of repairing similar highways in the same neighbourhood (*Billericay Rural Council v. Guardians of Poplar*, [1911] 2 K. B. 801; see also *Whitebread v. Sevenoaks Highway Board*, [1892] 1 Q. B. 8, in which it was pointed out that the expenses must be proved to be "extraordinary" as regards the particular road in question).

*"Excessive Weight"*

The phrase "excessive weight" is not applicable to the aggregate weight carried by a vehicle on a series of journeys, and still less to the aggregate weight carried by a number of vehicles. It applies to the weight put upon the road at any one time by any particular vehicle and its load. "Excessive weight" and "extraordinary traffic" are intended to cover the two classes of circumstance by which such damage is caused, the single vehicle doing damage and the series of vehicles, perhaps each harmless in itself, which cause damage by their concerted action and repeated use (*Hill v. Thomas*, [1893] 2 Q. B. 333, and *Kent County Council v. Vidler*, [1895] 1 Q. B. 448; *Henry Butt & Co. v. Weston-super-Mare Urban Council*, [1922] 1 A. C. 340).

Whether the weight of a vehicle is "excessive" must

be decided by comparison with the weights of vehicles commonly upon that particular road, and it is not material to consider what are the weights of vehicles commonly upon other roads in the same neighbourhood (*Lord Aveland v. Lucas* (1879), 5 C. P. D. 211; *Whitebread v. Sevenoaks Highway Board*, [1892] 1 Q. B. 8; and *Etherley Grange Coal Co. Ltd. v. Auckland Highway Board*, [1894] 1 Q. B. 37).

In making the comparison it is not enough to have regard to the particular year or period to which the complaint relates, as this may make the comparison an unfair one by reason of peculiar conditions, and the test must be upon such a basis as is equitable (*Hemsworth Rural Council v. Micklethwaite* (1904), 2 L. G. R. 1084).

This standard will obviously vary, generally in the direction of increased weights being regarded as ordinary, as the methods of transport and the art of road-making develop and improve, and this has been recognised in *Bromley Rural Council v. Croydon Corporation*, [1908] 1 K. B. 353; *Bromley Rural Council v. Chittenden* (1906), 70 J. P. 409; *Hemsworth Rural Council v. Micklethwaite* (*supra*); and *Henry Butt & Co. v. Weston-super-Mare Urban Council*, [1922] 1 A. C. 340. See also *Londonderry County Council v. MacCarthur*, [1917] 2 Ir. R. 49.

It is not a satisfactory test to compare vehicles on the basis of pressure per square inch of wheel surface. A broad wheel will not, of course, cut up the surface of the road as will one more narrow, but the concentrated weight may force down the whole road and so do far greater damage; see *Hemsworth Rural Council v. Micklethwaite* (*supra*).

If it be proved that the weight of a vehicle is excessive for the particular road in question, it is no answer that the vehicle is lawfully constructed and licensed or that the work upon which it was engaged was lawful. These provisions are expressly designed to deal with the results of traffic which is lawful and are not designed to prevent such traffic but merely to throw the special cost of it on to the shoulders of those who conduct it (*Lord Arland v.*

*Lucas* (1879), 5 C. P. D. 211, and *Hemsworth Rural Council v. Micklethwaite* (*supra*); *Hill v. Thomas*, [1893] 2 Q. B. 333; *Savin v. Oswestry* (1880), 44 J. P. 766; *Norfolk County Council v. Green* (1904), 68 J. P. 223; *Henry Butt & Co. v. Weston-super-Mare Urban Council*, [1922] 1 A. C. 340). The nature of the proceedings is that of an action for a personal tort (*Story v. Sheard*, [1892] 2 Q. B. 515).

Nor is it an absolute defence to such a claim that the authority has neglected properly to repair and maintain the road. But such neglect is very material on the question of what may be recovered and may make special damage very difficult to prove (*Hemsworth Rural Council v. Micklethwaite* (1904), 2 L. G. R. 1084; and see *R. v. High Halden* (1859), 1 F. & F. 678, and *A.-G. v. Scott*, [1905] 2 K. B. 161; *Sharpness New Docks v. A.-G.*, [1915] A. C. 654).

#### (4) "EXTRAORDINARY TRAFFIC"

"Extraordinary traffic" was described by Lord Bowen in *Hill v. Thomas*, [1893] 2 Q. B. 333, as follows:—

"It is true that extraordinary traffic is a traffic to be specifically distinguished from other traffic by the section; but the distinction cannot solely depend on the unusual character of the articles carried, but rather on the effect which the carriage of the particular articles, call them by whatever name or classification we will, may presumably be expected to have upon the road. If so, extraordinary traffic is really a carriage of articles over the road, at either one or more times, which is so exceptional in the quality or quantity of the articles carried, or in the mode or time of user of the road, as substantially to alter and increase the burden imposed by ordinary traffic and to cause damage and expense thereby beyond what is common. . . . It is argued that he is only carrying over the road the same substance as that which other people ordinarily carry. Here, again, the answer is that the section is not penal, but remedial and recuperative, and that it is because, though he carries ordinary articles, he does not carry them

in the manner or on the limited number of occasions in and on which other people carry them, and because the frequency of his travels over the road has caused the special mischief to the road, that such frequency constitutes in itself a reason why he should pay more than his neighbour." See also *Etherley Grange Coal Co., Ltd. v. Auckland Highway Board*, [1894] 1 Q. B. 37; *Cambridgeshire County Council v. Pepper* (1912), 10 L. G. R. 759; *Wolverhampton v. Salop County Council* (1895), 64 L. J. M. C. 179.

The carriage of passengers may constitute extraordinary traffic as well as the carriage of goods (*Abingdon Rural Council v. Oxford Electric Tramways, Ltd.*, [1917] 2 K. B. 318).

In order that traffic may be "extraordinary" it is not necessary that what is carried should be unusual or that it should be carried for an unusual purpose, but no doubt unusual purposes may have a tendency to produce "extraordinary" traffic and may account for it (*Hill v. Thomas* (*supra*)).

The test of what traffic is "extraordinary," like the test of what weight is "excessive," is comparison with what is ordinary on the particular road in question, and it is immaterial to consider what may be ordinary upon other roads in the same neighbourhood, and whether traffic is "extraordinary" is a pure question of fact to be determined in each case (*Lord Aveland v. Lucas* (1879), 5 C. P. D. 211; *R. v. Ellis* (1882), 8 Q. B. D. 466; *Whitebread v. The Sevenoaks Highway Board*, [1892] 1 Q. B. 8; *Hill v. Thomas*, [1893] 2 Q. B. 333; *Etherley Grange Coal Co., Ltd. v. Auckland Highway Board*, [1894] 1 Q. B. 37; *Mayor of Wolverhampton v. Salop County Council* (1895), 64 L. J. M. C. 179; *Shepton Mallet Rural Council v. John Wainwright & Co.* (1908), 72 J. P. 459; *Geirionydd Rural Council v. Green*, [1909] 2 K. B. 845; *Billericay Rural Council v. Poplar Union* (1911), 80 L. J. K. B. 1241; *County Council of Mayo v. M-Anish* (1913), 47 I. L. T. R. 120; *Kerry County Council v. Fletcher* (1916), 50 I. L. T. R. 86; *Henry Butt & Co. v. Weston-super-Mare Urban Council*, [1922] 1 A. C. 340).

In certain circumstances, what is the ordinary traffic on a particular road may vary periodically, as, for example, where a series of roads are used in turn for timber hauling in a recognised cycle of forestry (*Raglan Highway Board v. Monmouth Steam Coal Co.* (1881), 46 J. P. 598, explained in *Geirionydd Rural Council v. Green* (*supra*)).

It is not material that the traffic is of such a kind as is ordinary in the district or arises out of a recognised local industry, if it is not ordinary upon the particular road in question (*Etherley Grange Coal Co., Ltd. v. Auckland Highway Board*, [1894] 1 Q. B. 37; *Geirionydd Rural Council v. Green*, [1909] 2 K. B. 845; *Williams v. Davies* (1880), 44 J. P. 347; *Norfolk v. Green* (1904), 68 J. P. 223; *Wycombe Rural District Council v. Smith* (1903), 67 J. P. 75; *High Wycombe Rural District Council v. Palmer* (1905), 69 J. P. 167).

Nor is it material to consider why the particular road was used or if there was an alternative route or if anything that the authority did caused the defendant to use the road which he did use instead of another (*Barnsley British Co-operative Society, Ltd. v. Worsborough Urban Council*, [1916] 1 A. C. 291; *Henry Butt & Co. v. Weston-super-Mare Urban Council*, [1922] 1 A. C. 340).

That one person should make use of a particular road more than other persons do is not, in itself, sufficient to prove that the traffic conducted by him is "extraordinary"; the comparison must be made between his use and the ordinary user of the road by all who make use of it (*R. v. Williamson* (1881), 45 J. P. 505; *Hill v. Thomas*, [1893] 2 Q. B. 333).

It is clear that, the question being one of fact, what may at one time be "extraordinary" traffic on a particular road may later become ordinary traffic, and *vice versa*. Speaking generally, there may be expected a gradual extension and development of both the volume and the character of traffic, which the courts are ready to recognise and for which it is the duty of the highway authorities to provide (*Barnsley British Co-operative Society, Ltd. v.*

*Worsborough Urban Council*, [1916] 1 A. C. 291; *Hemsworth Rural Council v. Micklethwaite* (1904), 2 L. G. R. 1084; *Bromley Rural Council v. Chittenden* (1906), 70 J. P. 409; *A.-G. v. Scott*, [1905] 2 K. B. 161; *Ledbury Rural Council v. Somerset* (1914), 30 T. L. R. 534; and *Sharpness New Docks v. A.-G.*, [1915] A. C. 654).

In *Hemsworth Rural Council v. Micklethwaite* (*supra*) Lord Alverstone said :

“If the truth of the matter were that the traffic on this road had ceased to be merely agricultural, and the ordinary traffic upon it was altered so that it was used by way of ordinary traffic for heavy brick carts, coal carts, and other heavy vehicles, then, before the plaintiffs would be entitled to claim and assess what might be due to them in respect of damage done by extraordinary traffic or excessive weight of vehicles, the road must have been put into a condition of fitness to bear the altered state of traffic.”

The matter is one of greater difficulty, however, when the traffic under consideration is of a kind which is carried on only by certain persons, and if they alone continue to put it upon the road that will not of necessity make it traffic which is ordinary there, at all events until some length of time has elapsed (*Whitebread v. Sevenoaks Highway Board*, [1892] 1 Q. B. 8; *Bromley Rural Council v. Croydon Corporation*, [1908] 1 K. B. 353; *Bromley Rural Council v. Chittenden* (1906), 70 J. P. 409; *Abingdon Rural Council v. Oxford Electric Tramways Ltd.*, [1917] 2 K. B. 318; *Henry Butt & Co. v. Weston-super-Mare Urban Council*, [1922] 1 A. C. 340).

In making the comparison necessary to ascertain whether traffic is “extraordinary” the period taken must be that which will give a fair result, and it will not of necessity be right to consider only the period covered by the traffic complained of, as the circumstances may be such that this would not give a fair result. Nor must the period be so extended as to embrace past conditions which ordinary developments have made obsolete (*Hemsworth Rural Council v. Micklethwaite* (1904), 2 L. G. R. 1084).

It may be noted that persons who propose to put heavy traffic upon a road cannot rid themselves of their liability to claims, in respect of extraordinary traffic or excessive weight, by first improving and strengthening the road if they in fact do damage to it even in its improved state (*Shepton Mallet Rural Council v. John Wainwright & Co.* (1908), 72 J. P. 459).

It is no defence to a claim of this character that another person may be liable for the damage under another statute (*Barnett v. Hoo* (1882), 46 J. P. 805).

(5) "BY OR IN CONSEQUENCE OF WHOSE ORDER"

Much litigation arose as to the persons covered by the words "by whose order such weight or traffic has been conducted" in the Highways and Locomotives (Amendment) Act, 1878, s. 23, and it was established that they covered only those who directly ordered and controlled the traffic (*Northumberland Whinstone Co. v. Alnwick Highway Board* (1880), 44 J. P. 360; *Barnett v. Hoo* (1882), 46 J. P. 805; *Hobbs v. Tonbridge Rural Council* (1885), 49 J. P. 679; *Kent County Council v. Vidler* [1895], 1 Q. B. 448; *Colchester, Wemyss & Co. v. Gloucestershire County Council* (1897), 66 L. J. Q. B. 290; *Pethick v. Dorset County Council* (1898), 62 J. P. 579; and *Kent County Council v. Lord Gerard* [1897], A. C. 633). Accordingly, these words were replaced by the words "by or in consequence of whose order" (Locomotives Act, 1898, s. 12).

These words cover both the persons directly and those indirectly responsible for the traffic, for example, the builder and the building owner alike (*Bromley Rural Council v. Croydon Corporation*, [1908] 1 K. B. 353; *Bromley Rural Council v. Chittenden*, (1906) 70 J. P. 409; *Bromley Rural Council v. Wood* (1907), 5 L. G. R. 453; *Epsom Urban Council v. London County Council*, [1900] 2 Q. B. 751; *Egham Rural Council v. Gordon*, [1902] 2 K. B. 120; *Kent County Council v. Folkestone Corporation*, [1905] 1 K. B. 620; *Kent County Council v. Kent Coal Concessions* (1909), 25 T. L. R. 479; *Windlesham Urban Council v. Seward*

(1912), 11 L. G. R. 324; *Colchester Corporation v. Gepp* (1912), 10 L. G. R. 930).

And the highway authority can sue any one or more of such persons or can join any two or more of them in one action as joint defendants (*Chesterfield Rural Council v. Newton*, [1904] 1 K. B. 62).

As soon as it is proved that traffic was conducted "in consequence of" the order of a defendant, he is *primâ facie* liable for any extraordinary expenses occasioned thereby, but he can rebut that liability by proving that what caused the damage was not the result of his order, for example, by proving that the methods adopted by the persons actually carrying out the work were out of the ordinary and not such as he contemplated or should have contemplated would be employed (*Croydon Rural District Council v. Sutton Water Co.* (1908), 72 J. P. 217).

And in such cases, where excessive weight is alleged, it is not sufficient, in order to establish the liability of a defendant, to prove that he ordered large quantities of materials to be delivered, but it must also be proved that the materials were delivered in excessively heavy loads by or in consequence of the order of the defendant (*Egham Rural Council v. Gordon*, [1902] 2 K. B. 120).

#### (6) LIMITATION OF ACTIONS

As a general rule, actions to recover extraordinary expenses must be commenced within twelve months of the time at which the damage has been done (Locomotives Act, 1898, s. 12 (1) (b)).

And if part of the injury complained of was done prior to that period, evidence must be adduced to show how much of the damage can be attributed to what was done within the period (*Bromley Rural Council v. Croydon Corporation*, [1908] 1 K. B. 353).

But "where the damage is in consequence of any particular building contract, or work extending over a long period" the action may be commenced within six months

after the completion of the contract or work (*Locomotives Act, 1898, s. 12 (1) (b)*). This exception to the general rule operates to extend but not to limit the ordinary period, and it applies equally to persons "in consequence of whose order" work took place and to those "by whose order" it took place (*Kent County Council v. Folkestone Corporation*, [1905] 1 K. B. 620).

The exception only applies to the execution of a definite and entire work.

A series of similar contracts will not be regarded as one "work" (*Norfolk County Council v. Green* (1904), 68 J. P. 223).

Nor will a contract for the supply of materials over a period as they may be required, nor a contract to perform a quantity of labour be so regarded (*Bromley Rural Council v. Croydon Corporation* (*supra*); *Kent County Council v. Folkestone Corporation* (*supra*)).

It appears to be a matter of doubt how far the "work" to fall within the terms of the exception must be a work of construction, or demolition, or *ejusdem generis* with the work done under a building contract.

But it has been held that a contract for the construction of any physical object is a "building contract" for this purpose (*Carlisle Rural Council v. Carlisle Corporation*, [1909] 1 K. B. 471; *Lancaster Rural Council v. Fisher and Le Fanu*, [1907] 2 K. B. 516).

Where the exception does apply the period of six months runs from the completion of the work, and that has been held to mean the completion of that part of the work the execution of which has caused the traffic complained of, and the period is not postponed by the fact that there may be other unsatisfied obligations or contingent obligations still outstanding under the contract, for example, an obligation by the contractor to maintain the work for a period after completion (*Carlisle Rural Council v. Carlisle Corporation* (*supra*)).

What is the date of completion for which the period runs is a question of fact in each case (*Reigate Rural Council v.*

*Sutton Water Company* (1909), 25 T. L. R. 265; *Lancaster Rural Council v. Fisher and Le Fanu* (*supra*); *Carlisle Rural Council v. Carlisle Corporation* (*supra*)).

Where a contract calls for the execution of a number of separate works so connected that any one of them would be useless without the others, the whole will be regarded as one work and the period will run from the completion of the last section (*Lancaster Rural Council v. Fisher and Le Fanu*, [1907] 2 K. B. 516; *Carlisle Rural Council v. Carlisle Corporation* (*supra*)).

#### (7) PUBLIC AUTHORITIES PROTECTION ACT, 1893

Where the traffic complained of has been conducted "by or in consequence of" the order of a public authority, in pursuance or execution or intended execution of some Act of Parliament or some public duty or authority, the special period of limitation laid down by this statute will apply, and the action must be commenced within six months.

It has been held that the statute cannot apply where the work is carried out, not by the authority itself and its servants, but by an independent contractor, because an independent contractor is not the servant or agent of the authority and does the work because of his contract and not because of any public duty or authority (*Kent County Council v. Folkestone Corporation*, [1905] 1 K. B. 620).

#### (8) JURISDICTION

The amendments made by the Locomotives Act, 1898, s. 12, abolished entirely the procedure for the summary recovery of extraordinary expenses set out in the Highways and Locomotives (Amendment) Act, 1878, s. 23, and such expenses can no longer be so recovered even where they are claimed in respect of damage done by "light locomotives." For when it is provided by sect. 17 (2) of the Act of 1898, that that Act shall not affect locomotives within the meaning of the Locomotives on Highways Act, 1896, it is not intended to exclude such locomotives from the procedure

established by sect. 12 (1) in so far as they have characteristics identical with those of other vehicles, *e.g.* a capacity for causing damage to the highways (*R. v. Judge James*, [1908] 1 K. B. 958).

Where the claim for extraordinary expenses does not exceed £250 the action must be brought in the County Court.

At one time it appeared to be doubtful whether, when the claim did not exceed £250, the action must be brought in the County Court or whether the High Court could entertain it. It has now, however, been made quite clear that the action must be brought in the County Court (*Ripon Rural District Council v. Armitage*, [1919] 1 K. B. 559; and see *Chesterfield Rural Council v. Newton*, [1904] 1 K. B. 62, and *Chertsey Urban Council v. Binns* (1905), 69 J. P. newspaper, p. 28).

There may be power, after the action has been started in the County Court, to remove it into the High Court by *certiorari*, but the power will not be exercised merely because the questions of fact are complex and involve expert evidence, nor because the action is in the nature of a test action and, on that account, involves sums greater than £250 (*Godmanchester Urban Council v. Hooley* (1901), *Times Newspaper*, August 5).

The amount which governs the matter is the amount of the claim and not the amount which is ultimately found to be due. So if an action is brought for a sum exceeding £250 in the High Court, but judgment is obtained for less than £250, the claimants will not necessarily be deprived of costs on the High Court scale; the costs being subject to the provisions of Order LXV, r. 1, follow the event unless the Judge otherwise orders (*Chesterfield Rural Council v. Newton (supra)*).

#### (9) JOINDER OF PARTIES

The authority can, in one action, sue jointly all parties "by or in consequence of" whose order the traffic took place from which the extraordinary expenses are alleged to have arisen.

But two or more separate defendants, who have each conducted traffic on a road, cannot be joined in one action unless they are sued jointly.

And where defendants are sued jointly, they will not be compelled to give particulars to show the number or the weight of the loads attributable to each of them.

A contractor who has indemnified his principal against such a claim may be introduced into the proceedings as a third party (*Bromley Rural Council v. Chittenden* (1906), 70 J. P. 409; *Kent County Council v. Kent Coal Concessions* (1908), 72 J. P. 507; *Colchester Corporation v. Gepp* (1912), 76 J. P. 337; and see *Croydon Rural Council v. Sutton Water Co.* (1908), 72 J. P. 217).

#### (10) INSPECTION AND PARTICULARS

A defendant is entitled to inspect the books of the plaintiff authority so far as they relate to the particular highway in question, and he may exercise such right by his solicitor. But it has been held that he is not entitled to exercise the right by his engineer, nor is he entitled to inspection of the books so far as they relate to other highways in the neighbourhood (*Bromley Rural Council v. Chittenden* (1906), 4 L. G. R. 967).

But it has been held that the authority must give particulars of the names of the similar highways and of the average expense of repairing each of them (*Colchester Corporation v. Gepp*, [1912] 1 K. B. 477).

And in that case the Court of Appeal dissented from the dictum of Cozens-Hardy, M.R., in *Bromley Rural Council v. Chittenden* (*supra*), that "the average expense of repairing highways in the neighbourhood is not one of the questions in issue in the action," so that the authority of the case may be regarded as doubtful to that extent.

And, in *Morpeth Rural Council v. Bullocks Hall Colliery Co., Ltd.*, [1913] 2 K. B. 7, it was held that the authority must give the best particulars that they could of the average

cost of repairing similar highways in the neighbourhood for five years past, stating the cost of labour, the establishment charges, and the nature and quantities of the materials used, but need not give similar particulars with regard to the road alleged to have been damaged, as that was in substance a matter of defence, although the defendants would be entitled to full inspection of the books and documents relating thereto.

#### (11) AMOUNT RECOVERABLE.

The amount recoverable by the authority is the difference between the actual cost of maintaining and repairing the road in question, in the period in question, and the sum which would have represented the cost in the absence of the traffic which is alleged to have occasioned the extraordinary expenses.

To ascertain this in practice is an intricate matter, and many considerations must be borne in mind in arriving at an assessment.

What would have been the ordinary cost must be arrived at on the same basis as that laid down by the statutes for the surveyor, in preparing his certificate, by having regard to the average expense of repairing similar highways in the neighbourhood (*Colchester Corporation v. Gepp*, [1912] 1 K. B. 477; *Cambridgeshire County Council v. Pepper* (1912), 10 L. G. R. 759). But the whole of the difference between that figure and the actual cost proved to have been incurred is not necessarily, and will in practice seldom be, the amount recoverable by the authority.

The whole of such difference may not have been due to the traffic or weight complained of. The conditions as to weather in the period in question must be taken into consideration, and any proper allowance made for damage which would have been so caused to the road, apart from the traffic complained of (*Williams v. Davies* (1880), 44 J. P. 347; *Lord Arcland v. Lucas* (1879), 5 C. P. D. 211).

And due allowance must be made for any betterment of the road effected by the repairs as actually carried out (*Colchester Corporation v. Gepp* (1912), 10 L. G. R. 930 ; *Kerry County Council v. Fletcher* (1916), 50 I. L. T. R. 86 ; *County Council of Mayo v. M'Anish* (1913), 47 I. L. T. R. 120).

It will also be material to consider whether any variation has taken place in the cost either of labour or of materials, and to make such allowance as will make the comparison just having regard thereto.

And due allowance must be made for the effect of any neglect which there may have been on the part of the authority to keep the road in proper repair (*Hemsworth Rural Council v. Micklethwaite* (1904), 2 L. G. R. 1084 ; *A.-G. v. Scott*, [1905] 2 K. B. 161).

The question is, of course, one of fact, and the judgment of Channell, J., in *Colchester Corporation v. Gepp* (1912), 76 J. P. 337, is an excellent example of the method which must of necessity be employed in arriving at a figure.

## (12) AGREEMENT OF COMPROMISE

By Highways and Locomotives Act, 1878, s. 23, it is expressly provided that any person against whom expenses are or may be recoverable under that section may enter into an agreement with the authority concerned for the payment to them of a composition in respect thereof, and so put an end to their liability. This clearly can be done in respect of contemplated traffic as well as in respect of traffic which has actually passed.

## (C) LIABILITY OF LOCAL AUTHORITIES FOR DAMAGE TO TRAFFIC

It is not an infrequent occurrence that damage is caused to road users either by reason of the dangerous condition of the road itself or by reason of insufficient protection having been afforded against dangers adjacent to the road, and it may be useful here, quite shortly, to consider

what remedy, if any, the injured party may have in such cases against the authority liable for the maintenance of the road. Quite generally stated, the rule is that, in actions for damages for negligence, highway authorities, as such, are liable for misfeasance, but not for nonfeasance, and that the question whether the act or omission complained of is misfeasance or mere nonfeasance is a question of fact, to be determined by a judge or jury in each particular case. The distinction is clearly illustrated by *Whyler v. Bingham Rural District Council*, [1900] 2 K. B. 45, on the one side, and *Cowley v. Newmarket Local Board*, [1892] A. C. 345, on the other.

In the first case, where the authority had removed and neglected to replace a fence, and a road-user drove into a deep ditch and was drowned, the authority was held to be liable because the cause of the accident was their misfeasance. In the second case, where the authority had not caused, but merely had left the source of danger unamended, the Court declined to hold them liable for mere nonfeasance.

The reason why no action lies for nonfeasance against highway authorities seems to be that they are merely successors to the inhabitants of the parish, who were of old bound to repair and could be indicted for non-repair. But they were an indeterminate body, and when nobody had done anything there was no defendant against whom the action could be brought except it were every single parishioner; and this would lead to multiplicity of actions.

What is a misfeasance is a question of fact, but it is clear that, if the damage results from the act of the authority, the fact that for some time nothing has been done to remove the danger will not enable the authority to escape liability on the ground that this neglect is mere nonfeasance. See *Breen v. Tyrone County Council* (1908), 42 I. L. T. R. 250; *Shoreditch Corporation v. Bull* (1904), 2 L. G. R. 756; *Clements v. Tyrone County Council*, [1905] 2 I. R. 542; *Hill v. Tottenham Urban Council* (1898), 79 L. T. 495; *Foreman v. Mayor of Canterbury* (1871), L. R.

6 Q. B. 214; *Holloway v. The Birmingham Corporation* (1905), 69 J. P. 358.

All such actions are within the scope of the Public Authorities Protection Act, 1893, s. 1, as to which, see *ante*, p. 156.

#### (D) HEDGES AND TREES PREJUDICING HIGHWAYS

With the development and growth of mechanical transport and more rapid traffic on the roads, a greatly increased importance has been given to the question of how, and how far, hedges and trees can be cut down and removed when they prejudice the highway.

By the Highway Act, 1835, s. 65, if the surveyor is of opinion that any carriage-way is prejudiced by the shade of any hedges or trees, except trees planted for ornament or for shelter to any hop-ground, house, building or court-yard of the owner thereof, growing in or near such hedges or other fences, and that the sun and wind are excluded from such highway, to the damage thereof, or if any obstruction is caused in any carriage-way by any hedge or tree, a justice of the peace may summon the owner of the land on which the hedges or trees are growing to show cause why the hedges should not be pruned or cut, or the trees pruned or lopped, as may be necessary to remove the prejudice or obstruction, and may order the owner so to do. If this order is not complied with, the owner is liable to a penalty, and the surveyor may carry out the order, and be reimbursed by the owner for the cost.

But by sect. 66 of the Act it is provided that nobody shall be compelled nor any surveyor be entitled to cut or prune any hedge except between September 30 and March 31.

These provisions are of a very limited character, and are available only where the sun and wind are excluded from the road, or where the highway is actually obstructed, and much of their value is destroyed by the exception of trees planted for ornament and shelter, and by the fact

that lopping only can be ordered and not topping (*Unwin v. Hanson*, [1891] 2 Q. B. 115).

Moreover this jurisdiction does not extend to any trees except those growing on land actually adjoining the road (*Jenney v. Brook* (1884), 2 Q. B. 265 ; 6 Q. B. 324).

It has been held that the word "owner" must be construed as including occupier (*Woodard v. Billericay Highway Board* (1879), 11 Ch. D. 214).

It has also been held that where an actual obstruction is caused, the justices may order the tree to be removed at any time of the year, even if it is a timber tree, unless it is within the exception protecting ornamental trees and those planted for shelter (*Bullen v. Wakely* (1898), 62 J. P. 166).

As to the counties of Wilts, Dorset, Somerset, Devon and Cornwall, reference should be made to the Highway Act Amendment Act, 1885, s. 2, which, however, is limited in its operation to these counties alone.

### (E) ANIMALS ON THE HIGHWAY

In the Highway Act, 1864, s. 25, are important provisions for preventing horses and cattle of all kinds from lying about or straying on highways(s). This section creates two offences, the offence of "straying" and the offence of "lying about." In the section (74) of the Highway Act of 1835 which this section repeals and replaces, it was an offence on the part of those responsible for them if cattle were found "wandering straying or lying or being depastured on any highway or on the sides thereof without a keeper": but the words "without a keeper" were left out of the section in the Act of 1864: and this has been held to mean that if cattle "lie about" a highway their owner may be fined, even though the cattle are under the control of a keeper at the time (*Lawrence v. King* (1868), L. R. 3 Q. B. 345).

(s) The operation of the section is general, and is not confined to the "highway districts" (formed under the Highway Act, 1862), for which the highway authority is now the District Council.

A conviction may be obtained under this section where the owner's cattle are found straying on or lying about a highway, even where he has a right of pasturage on the sides of the highway (*t*). The saving of the right of pasturage on the sides of the highway which is found in the concluding words of the section is to be taken very strictly, and does not exempt the owner of cattle who has that right if he allows his cattle to stray or lie about.

It should be noticed that this section does not apply to "such parts of any highway as pass over any common or waste or unenclosed ground," and the question, What is "common waste or unenclosed ground"? has on several occasions been discussed by the judges. *Primâ facie* the presumption is that a strip of land lying between a highway and the adjoining enclosure, and also the soil of the highway to its middle line, is the property of the owner of the enclosure; but this presumption may be rebutted by good evidence, as, *e.g.* by showing that the strip intervening between highway and the enclosure is part of an open common or large portion of land, and that the middle line was, at some time of which evidence can be given, not the boundary between adjoining properties (*u*). But the question of ownership is not material if the view taken by Channell, J., in *Plumbley v. Lock* be (as we respectfully submit that it is) correct—that even though the soil of the wayside strips be admittedly vested in the owners of the adjoining land, the strips may nevertheless be common or waste land within the meaning of this section. The proper view to take of the exception is that taken by Blackburn, J., in his judgment in *Bothamley v. Danby* (*x*), that although every highway (except such as run between walls and hedges close up to the way) passes through unenclosed ground, the Legislature cannot have intended every such highway to come within the exception. "Where the highway runs through an extent of ground of some

(*t*) *Golding v. Stocking*, and *Freestone v. Caswell* (1869), L. R. 4 Q. B. 516.

(*u*) As in *Grose v. West and Others* (1816), 7 Taunton, 38; approved by Alverstone, L.C.J., in *Plumbley v. Lock* (1903), 67 J. P. 237.

(*x*) (1871), 24 L. T. 656, 659.

magnitude then it is within the exception, and when it does not and the quantity of ground is of so small an acreage as to be merely accessory to the road, then it would be otherwise."

### (F) CLOSING OF ROADS TO MOTOR TRAFFIC

In substitution for the powers given by Motor Car Act, 1903, s. 8, to the Local Government Board, the scope and effect of which were matters of some doubt, the Minister of Transport, by Roads Act, 1920, s. 7 (4), was given power on the application of any council of a county or county-borough and after public enquiry to prohibit or restrict the driving of vehicles of any specified class on any specified highway, where in his view there would be danger to the vehicle or its passengers or to other traffic, or the highway is unsuitable for use by such vehicles.

By Schedule II of the Act any such application made by a council must be in the prescribed form, and state the grounds upon which it is made. Due notice of the proposed enquiry must be given in the Gazettes and in the local newspapers, and the enquiry must be held in public. All persons interested may appear at the enquiry either in person or by solicitor or counsel, and must be heard, if they have given notice in writing of their desire to be heard, unless the views that they wish to support have already been adequately stated, and evidence may be taken on oath.

As to the form of the initial application by the council, see Road Vehicles (Registration and Licensing) Order, 1921, Regulation 40 (1), *post*, p. 371.

If the desired Order is made, the authority responsible for the maintenance of the highway in question must give notice of the fact in the Gazettes and in the local newspapers as required by the Act, s. 7 (4), and by Regulation 40 (2) of the 1921 Regulations. For this purpose Motor Car Act, 1903, s. 10, must be read so that references therein to motor cars include references to all vehicles within the meaning of the Roads Act, 1920.

The authority must also set up such notice-boards or signs in such places on or near the highway, and take such other steps to make the Order known, as the Order may direct (*ibid.*; see *Yeaman v. Jameson*, [1910] S. C. (J.) 8, and Circular Letter of Ministry of Transport, February 28, 1921).

Such an Order once made may be revoked, amended or varied by the Minister at any time, without further public enquiry, if he first gives notice to the council on whose application the Order was made and considers any objection raised by them (sect. 7 (4)).

Any person driving or causing any mechanically propelled vehicle to be driven on any highway in contravention of such an Order is liable to a penalty not exceeding £20 (Regulation 40 (3) and Roads Act, 1920, s. 12 (4)).

In addition to the above powers the Minister of Transport may, under the Locomotives on Highways Act, 1896, s. 6 (1), make regulations with respect to the use of light locomotives on highways and the conditions under which they may be used.

Such regulations by section 6 (2) may be of a local nature and limited to a particular area, and may, on the application of any local authority, prohibit or restrict the use of locomotives for purposes of traction in crowded streets or elsewhere where their use may cause danger to the public.

It is to be observed that section 6 (1) applies to "light locomotives," but that the power to restrict user in crowded streets or other dangerous places applies to "locomotives." It is understood that in practice no regulations are made except on the application of local authorities.

Under these powers special speed limits may be set up which do not fall within sect. 9 of the Motor Car Act, 1903, so that presumably no previous notice need be given of intended prosecution for exceeding these special limits.

The penalty for breach of such regulations is by sect. 7 of the Act of 1896 a fine not exceeding £10.

**(G) LOCOMOTIVES ON BRIDGES**

Special restrictions have by statute been placed upon the use of bridges by heavy locomotives, and local authorities are invested with wide powers of restriction in this respect by bye-law.

*Suspension Bridges*

No locomotive may be taken across any suspension bridge (Locomotives Act, 1861, s. 6).

*Bridges insufficient for Heavy Traffic*

By the Locomotives Act, 1861, s. 6, if a conspicuous notice is put up by the authority of the local surveyor or of the persons liable for the repair of a bridge that the bridge is insufficient to carry weights beyond the ordinary traffic of the district, no locomotive may be taken across the bridge without the consent of the surveyor or the bridge-master under whose charge the bridge is, or of the persons liable for its repair.

If an owner of a locomotive considers that such a prohibition is unreasonable, he can appeal to the Minister of Transport or, in the case of a bridge which any railway company is liable to repair, to the Board of Trade, and they can, if in all the circumstances they think fit to do so, rescind or vary the prohibition (Locomotives Act, 1898, s. 7).

Those responsible for the prohibition must act on the decision of the Minister of Transport or Board of Trade, but they are not debarred from re-imposing the prohibition in the future if they consider this course to be justified by any change in the circumstances of the bridge or the traffic, subject, of course, to a fresh appeal (*ibid.*).

*Passing of Locomotives on Bridges Prohibited*

No locomotive may be taken on to any bridge so as to meet or pass any other locomotive thereon, subject to a penalty not exceeding £5 (*ibid.* s. 8).

*Damage caused to Bridge*

If a locomotive or any trailer drawn by it causes damage by crossing a private bridge, the owner of the locomotive must at his own expense repair the bridge to the satisfaction of those ordinarily liable to repair it and those affected by the damage, and will also be liable for loss of tolls, interruption of navigation, delay and loss caused by the damage (for details, see Locomotives Act, 1861, s. 7). As to county bridges, see *R. v. Kitchener* (1873), L. R. 2 C. C. R. 88.

*Bridges closed by Bye-Law*

By the Locomotives Act, 1898, s. 6, the use of bridges by locomotives may be prohibited or restricted by bye-law. These bye-laws may be made by the council of any county or of any borough which in 1881 had a population of ten thousand or more. They must be submitted for the confirmation of the Minister of Transport, and notice of intention to apply for their confirmation must be given in the *London Gazette* at least a month before the application (y). They may prohibit or restrict such use on any bridge if the council are satisfied that the bridge is unsuited for such traffic or that it would be attended with damage to the bridge or danger to the public. Where the council have prohibited locomotives on a bridge, they may nevertheless authorise individual machines to use it for delivering goods or any particular purpose; but this dispensing power may not be used without the consent of the person liable to repair such bridge, and the council may impose a condition that the owner of the locomotive to whom the permission is given shall pay to the person liable to repair the bridge the cost of temporarily strengthening the bridge on each occasion of the privileged use. Special directions are given by the section to the Minister of Transport as to the special factors to be regarded when considering the bye-laws submitted, and the Local Government Board issued model bye-laws (z).

(y) As to confirmation, writing, authentications and evidence of bye-laws, see the Act of 1898, sect. 6 (3).

(z) Published in Mackenzie and Handford's Model Bye-Laws.

*Heavy Motor Cars and Trailers on Bridges*

By the Heavy Motor Car Amendment Order of 1907, which replaced Art. XIV of the Heavy Motor Car Order, 1904, a person who has to repair any bridge may put up on the bridge a notice, stating that the bridge is insufficient to carry a heavy motor car the registered axle-weight of any axle of which exceeds three tons or the registered axle-weights of the several axles of which aggregate five tons or any greater weight specified in the notice. If this notice is put up, no person may drive a heavy motor car over the bridge, or cause it to be driven, without the consent of the person liable to repair. Where a dispute arises between the owner of a heavy motor car and the person liable to repair the bridge as to whether the bridge is in fact sufficient or not, it may be referred to arbitration, and if the arbitrator finds that the bridge is sufficient the prohibition is removed and the notice must be at once removed also. If the repairer of the bridge does not consent to arbitration within one month of being required in writing to do so, or does not within a month of a written request to do so appoint or concur in the appointment of an arbitrator, umpire or third arbitrator as the submission or any agreement between the parties may require, he must take down his "prescribed notice" at once, and the prohibition to heavy motor cars on the bridge ceases to be effective. But a single arbitration and settlement thereof does not preclude the person liable to repair from putting up a fresh and later notice at any future time if the fresh notice specifies a greater weight than the earlier one; and if he puts up such fresh notice the provision for arbitration comes in again (Order of 1907, Art. XIV (2) (iii)).

It does not appear from the terms of the Order that the power of the arbitrator in cases of this kind extends beyond the mere finding that a bridge is or is not sufficient to carry the particular heavy car in question. A given bridge might obviously be able to carry a single heavy motor car once or twice a day, and yet be insufficient for constant traffic, and we submit that much difficulty might

be avoided if an arbitrator were enabled to annex conditions to his finding that a bridge was sufficient to carry a heavy motor car. In the case of locomotives, persons liable to repair, or county councils, can interfere to prevent their being used on bridges; but it does not appear that they have authority to restrict light locomotives (some of which are heavy motor cars), which have been registered, from using a bridge. The Minister of Transport might, of course, make regulations under sect. 7 of the Roads Act, 1920, prohibiting or restricting the use of heavy motor cars on "any part of a highway," and this power, no doubt, extends to those portions of highways which pass over bridges.

It may be observed that the Motor Car Act, 1903, s. 17, prohibits the use by motor cars of the Menai Bridge, except in accordance with regulations issued by the Commissioners of Works, and that such regulations have been issued (S. R. O., 1909, 282 and 283).

### (H) REGULATION OF TRAFFIC IN METROPOLIS

By the Metropolitan Police Act, 1839, s. 52, the Commissioners of Police are empowered to regulate traffic on Sundays, Christmas Day and Good Friday, and to regulate the route to be taken by traffic for the purpose of preventing obstruction within the Metropolitan Police District during times of public processions or illuminations (*a*).

The Metropolitan Streets Act, 1867 (*b*), added very considerably to the powers of the Commissioners of the Metropolitan and the City Police for regulating traffic throughout the Metropolis and City of London (*c*). The provisions of this Act and of regulations made under it relate chiefly to motor omnibuses; but the Commissioners

(a) The Commissioner of City Police is given the same powers by 30 & 31 Vict. c. 134, s. 24.

(b) 30 & 31 Vict. c. 134; amended by 31 & 32 Vict. c. 5 (Metropolitan Streets Amendment Act, 1867).

(c) "Metropolis" is defined by sect. 2 of the Act as amended by the Metropolitan Streets Act, 1885 (48 & 49 Vict. c. 18), sect. 2. The Act is in force in the City and in a circular area of which the centre is Charing Cross, and the diameter twelve miles drawn in a straight line through the Cross.

of Police are given general powers to prevent the carriage of advertisements (*d*) within the limits of the Metropolis. The Commissioners are further empowered (*e*), subject to the consent of the Secretary of State, to declare any street or streets to be within "special limits." When any streets have been so declared, the Commissioners have very large powers. They may make rules prohibiting any cart or carriage from passing through a street or part of a street on its way further, and with respect to the line kept by persons riding or driving. It is noticeable, however, that even within "special limit" districts the Commissioners cannot limit the number of motor omnibuses which pass down the street "in the course of their trade." A breach of these regulations is visited with a penalty not exceeding 40s., and a constable may arrest without warrant any person who wilfully breaks these regulations within his view (*f*).

We need not deal at length with the powers of the London County Council to make bye-laws as to traffic. These they share with other councils outside the metropolitan area, and they are in no way peculiar to the Metropolis. In 1909 the Corporation of London obtained, by a private Act of Parliament (*g*), wide powers of regulation of traffic, and though this Act is a local one and is not properly within the purview of this book, it is mentioned as of interest to London motorists and drivers and as a possible precedent for future legislation outside the narrow limits of the City. After extending the time during which cattle may be driven through the City without leave, the Act proceeds to replace (*h*) the provisions of sect. 11 of the Metropolitan Streets Act, 1867, by stronger powers which are given to the Court of the Mayor and Aldermen. The Mayor and Aldermen are given for the whole City and

(*d*) Sect. 9.

(*e*) Sect. 10.

(*f*) The breach must be within view of the constable, otherwise an action will lie against him for false imprisonment.

(*g*) The City of London (Street Traffic) Act, 9 Edw. 7 (personal and local), c. clxvii.

(*h*) As to the City, sect. 11 must be taken to be repealed by the Act of 1909.

at all times those powers which the Commissioner of Metropolitan Police has in districts declared to him to be special districts.

As we read the Act, the Court of the Mayor and Aldermen have much greater powers than the Commissioners of Police ever had, for they can prohibit absolutely (or subject to regulations as to hours and other conditions) the use of any street in the City by any class or all classes of vehicles ; and there is nothing in the Act to limit this prohibition to the regulation of such vehicles as are using a street on the way through to another, or not in the ordinary course of trade. Accordingly, the Court can absolutely forbid a merchant to bring his goods to his door—a power never before given, so far as we are aware, to any local authority. These powers cannot, however, be exercised except by means of regulations ; and before making them the Court are obliged to hold a public enquiry, and to have their regulations approved by the Secretary of State. Without any such enquiry, but subject to the Secretary of State's approval, the Court may also prohibit the loading or unloading of coal, coke, and casks for beer, whether full or empty, across any footway. A penalty of 40s. is also imposed on every person who shall wilfully obstruct any street in the City.

## CHAPTER IX

### HACKNEY AND STAGE CARRIAGES

#### (A) IN THE METROPOLITAN AREA.

##### (a) Licences for Drivers of Hackney Carriages.

- (1) Discretion of Commissioner.
- (2) Application for Licence.
- (3) Form of Licence.
- (4) Notice of Change of Address.
- (5) Revocation or Suspension of Licence.
- (6) Employer to Hold Licence.
- (7) Entries by Employer on Licence.
- (8) Driver's Ticket.
- (9) Endorsement of Licence.
- (10) Renewal of Licence.
- (11) Offences as to Licences.

##### (b) Relations between Owners and Drivers.

- (1) Written Contract of Employment Necessary.
- (2) "Matters of Complaint."
- (3) Responsibility of Owner for Acts of Driver.
- (4) Production of Driver by Owner.
- (5) Relations as to Penalties for Offences.
- (6) Driver Permitting Unauthorised Person to Drive.

##### (c) Licences to Drivers and Conductors of Stage Carriages.

- (1) "Metropolitan Stage Carriage."
- (2) Provisions as to Licences.
- (3) Liability of Owner for Offences.

##### (d) Licensing of Hackney and Stage Carriages.

- (1) When Licence Required.

##### (1A) "Plying for Hire."

- (2) Application for Licence.
- (3) Discretion of the Commissioner.
- (4) Method of Application.
- (5) Plates.
- (6) Form of Licence.
- (7) Transfer of Licence.
- (8) Conditions of Licence.
- (9) Revocation or Suspension of Licence.
- (10) Defacement of Licence.
- (11) Return of Expired Licence.
- (12) Recall of Licence.

##### (e) Regulation.

##### (1) Of Hackney Carriages.

##### (a) Sources of Regulation.

- (β) Stands.
- (γ) Liability to be Hired.
- (δ) Fares.
- (ε) Taximeters.
- (θ) Number of Persons and Amount of Luggage to be Carried.

##### (s) Bilking.

##### (κ) Lost Property.

##### (μ) Drunkenness, Furious Driving and Misbehaviour.

##### (ν) Permitting Unauthorised Persons to Drive.

##### (o) Carriage of Infected Persons.

##### (π) Inspection of Fitness.

##### (τ) Various Regulations.

##### (2) Of Stage Carriages.

##### (a) Sources of Regulation.

##### (β) "London."

##### (γ) Sundry Regulations.

##### (δ) Carriage of Infected Persons.

##### (ε) Fares.

- (s) Persons beside the Driver.
- (κ) Deviation from Route.
- (μ) Drunkenness, Furious Driving and Misconduct.
- (B) OUTSIDE THE METROPOLITAN AREA.
  - (a) Licensing of Drivers and Conductors of Hackney and Stage Carriages.
    - (1) Generally.
    - (2) Licensing Authorities.
    - (3) Discretion of Authority.
    - (4) Duration and Revocation of Licence.
    - (5) List of Licences.
    - (6) Driving without a Licence.
    - (7) Owner to Hold Licence.
    - (8) Production of Driver by Owner.
    - (9) Endorsement of Licence.
    - (10) Owner not to Write on Licence.
    - (11) "Matter of Complaint."
  - (b) Licensing of Public Carriages.
    - (1) Generally.
    - (2) Discretion of Authority.
    - (3) Application for Licence.
    - (4) Form of Licence.
    - (5) Duration of Licence.
    - (6) Register of Licences.
    - (7) Offences as to Licences.
    - (8) Suspension and Revocation of Licences.
- (c) Regulation of Public Vehicles.
  - (1) Hackney Carriages.
    - (a) Sources of Regulation.
    - (β) Plying with Unlicensed or Unmarked Vehicle.
    - (γ) Refusal to Carry Authorised Number of Persons.
    - (δ) Refusal to Drive to Destination desired.
    - (ε) Excessive Fares.
    - (θ) Waiting Charges.
    - (s) Allowing Unauthorised Persons to Ride or Drive.
    - (κ) Drunkenness and Dangerous Driving
    - (λ) Leaving Carriage Unattended.
    - (μ) Obstruction.
    - (ν) Carriage of Infected Persons.
    - (o) Regulation by Byelaws.
    - (π) Recovery of Penalties.
  - (2) Stage Carriages.
    - (a) Sources of Regulation.
    - (β) Regulation by Byelaws.
    - (γ) Registration of Licences.
    - (s) Carriage of Infected Persons.
    - (μ) Fares.

WHERE it is desired to use any mechanically propelled vehicle as a hackney or stage carriage it is necessary to obtain the appropriate licences for this purpose, both in respect of the driver and of the vehicle, and a vehicle so used and those so using it are bound by the special laws and regulations which govern the use of these carriages (Locomotives on Highways Act, 1896, s. 1 (1) (b), *post*, p. 264).

It should be noted that no such licence is required until the vehicle is actually to be used. No licence is required for vehicles merely held in reserve for use when required (*London County Council v. Fairbank*, [1911] 2 K. B. 32).

As these matters are governed in London by a procedure different from that obtaining outside the London area, it will perhaps be most convenient first to deal with the position in the metropolitan area—that is to say, in the City of London—together with the area covered by the Metropolitan Police District as delimited by the Metropolitan Police Acts, 1829 and 1839, and the Orders made thereunder.

### (A) IN THE METROPOLITAN AREA

#### (a) LICENCES FOR DRIVERS OF HACKNEY CARRIAGES

The earliest provisions for licensing cab drivers which are still in force in the Metropolis are in the London Hackney Carriage Act, 1843. By section 2 of that Act the term “hackney carriage,” which in the course of legislation has received more than one definition, was defined as follows: “The words ‘hackney carriage’ shall include every carriage (except a stage carriage) which shall stand on hire or ply for a passenger for hire (a) at any place within the limits of the City of London and the Liberties thereof, and the Metropolitan Police District.” To drive carriages which answer this description the Commissioner of Metropolitan Police is empowered by the London Hackney Carriage Acts, 1843 and 1869, as amended by the Metropolitan Carriages Act, 1850, to license any person who satisfies him of his fitness and who is not less than twenty-one years old.

The age, which was originally sixteen, was raised to twenty-one by Order of the Home Secretary, who, by sect. 15 of the Act of 1869, is empowered thus to vary the provisions of the Act of 1843. Some doubt has been expressed as to the power of the Home Secretary thus to exclude persons between sixteen and twenty-one who are otherwise qualified, but the point does not appear to have been raised in the courts, and, in view of the wording of

(a) As to what is “plying for hire,” see *post*, p. 193.

sect. 15 of the Act of 1869, it is very doubtful if it could be raised with any hope of success.

To drive a hackney carriage in the metropolitan area without holding such a licence is an offence under sect. 10 of the Act of 1843, punishable by fine not exceeding £5, provided that if the proprietor of the carriage proves that the driving of the carriage was occasioned by unavoidable necessity the penalty shall not be enforced.

And by the Act of 1869, s. 8 (which does not repeal sect. 10 of the Act of 1843), if a hackney carriage plies for hire under the charge of an unlicensed driver, such driver is liable to a penalty not exceeding 40s.

Such licences are granted under the Act of 1869, but they are governed by the provisions of the Act of 1843 so far as these are still in force and subject to the amendments made in them by Orders made under sect. 15 of the Act of 1869. These provisions of the earlier Act are of a very detailed character.

Every licence must have a number, and must contain the name, surname, address, and a description of the person to whom it is granted, and there must be columns on the licence in which those who employ the holder of the licence must enter their names and addresses and the dates at which he enters and leaves their service. When getting his licence the driver is entitled to have given him by the Commissioner of Police an abstract of all the laws in force relating to him and the penalties to which he is liable for any misconduct, and also a metal ticket on which his office or employment shall be marked or engraved. This plate must also have upon it a number corresponding to the driver's licence.

If any of the particulars entered or endorsed on the licence become defaced or erased, the licence is void. The licence is the property of the driver, and for anyone employing him to enter anything upon it except what he is required to enter by law is a defacement of the licence and constitutes a "matter of complaint" under sect. 22 of the Act of 1843, in respect of which the driver can recover

compensation on complaint to a magistrate (*Norris v. Birch*, [1895] 1 Q. B. 639; *Hurrell v. Ellis* (1845), 2 C. B. 295; *Rogers v. Macnamara* (1853), 14 C. B. 27; *Heath v. Brewer* (1864), 15 C. B. (N. S.) 803).

The Act of 1869, s. 8, provides that licences to drivers may be granted at such price and on such conditions, may be in such form and subject to revocation or suspension in such events, and may generally be dealt with in such a manner as the Secretary of State may prescribe by order; but that, unless revoked or suspended, these licences are to be in force for a year.

Under this Act and the Act of 1843, successive orders relating to hackney carriages in the metropolis have been issued by the Home Secretary for the time being. The most important order is the Cab Order, 1917 (*b*). This Order also provides that the fee for the issue of a licence shall be five shillings.

#### (1) *Discretion of Commissioner*

The wording of the Order of 1917, under which the Commissioner of Metropolitan Police acts as deputy for the Home Secretary, in form is wholly permissive and seems to give to the Commissioner absolute discretion as to granting or declining to grant licences to drive hackney carriages. The extent of the Commissioner's discretion has, however, been considered by the courts in cases dealing with the licensing of vehicles (see *post*, p. 195).

The Commissioner has discretion to refuse a licence if the applicant is not of good character or is unfit to act as a driver, or if he has for any considerable period not acted as a driver when licensed to do so (Cab Order, 1917, Art. 20).

#### (2) *Application for Licence*

A person desirous of obtaining a licence to drive a hackney carriage must apply at the Public Carriage Office, New Scotland Yard.

By sect. 14 of the Act of 1843 application must be made in the form appointed by the Commissioner. Applicants

(*b*) S. R. O. 1917, No. 426.

for licences to drive mechanically propelled vehicles are required to produce a medical certificate of fitness. All men are photographed for identification and drivers are examined both as to proficiency in driving and as to topographical knowledge. Forms are issued to applicants on which the recommendation of two householders and the signature of the last employer are required.

To give any false information in applying for a licence or to endeavour to obtain a licence by any forged recommendation or to fail truly to answer all questions put, is an offence the penalty for which is a fine not exceeding £5 (London Hackney Carriage Act, 1843, s. 14).

It is a like offence for any person to whom reference is made in connection with such an application to make any wilful misrepresentation (*ibid.*).

### (3) *Form of Licence*

If issued, the licence to drive a hackney carriage will be in the form set out in Schedule H of the Cab Order, 1917, made under Act of 1869, and the London Cab and Stage Carriage Act, 1907, and will be for one year (Cab Order, 1917, Art. 21). A copy of the licence must be issued to the driver (Cab Order, 1917, Art. 24), and the driver must carry this and produce it on demand to any authorised police officer (*ibid.* Art. 36).

The licence specifies the type of vehicle authorised to be driven, and the holder may only drive vehicles of that type. The authority may be varied by endorsements upon the licence (Cab Order, 1917, Art. 34).

### (4) *Notice of Change of Address*

If the holder of a driver's licence changes his address, he must within two days give notice in writing of his new address to the Commissioner and produce his licence so that the fact may be indorsed upon it. The penalty for failure to do so is £1, for which the Commissioner may sue at any time during the currency of the licence (Act of 1843, s. 15).

(5) *Revocation or Suspension of Licence*

Drivers' licences, by the Cab Order, 1917, Art. 22, are subject to revocation or suspension for any period by any justice of the peace in any of the events in which any licence granted to the driver of a cab or a driver or conductor of a stage carriage could have been revoked or suspended at the passing of the Metropolitan Public Carriage Act, 1869, or in the event of any breach of the Order of 1917, or of any of the provisions of the Act of 1869, or the London Cab and Stage Carriage Act, 1907.

The Commissioner, by Art. 23 of the Order, as amended by Order 423 of April 3, 1919, can also revoke or suspend a licence if in his opinion the holder has been guilty of misconduct in the exercise of his calling or has become unable to exercise his calling without risk to the public.

If the magistrate suspends or revokes the licence, the employer must hand over the licence to the magistrate, and the driver must hand over his ticket which corresponds to the licence (*ibid.* Art. 25), and these must be sent by the magistrate to the Commissioner of Police. It is the Commissioner's duty to keep the licence and ticket during the period of suspension (if the licence has been suspended only), and to return them to the original grantee when the period of suspension is over; but if the licence be revoked by the magistrate, the Commissioner of Police must cancel it.

(6) *Employer to hold Licence*

By the Act of 1843, s. 21, every proprietor of a hackney carriage who permits or employs a licensed driver to drive it must obtain and hold the licence of such driver, and must produce it if he is summoned to produce the driver before a magistrate if the driver is still in his service when the summons is received by him. Failure so to do will render the proprietor liable to forfeit the sum of £3 for each offence.

When the driver leaves the service of the proprietor the latter must usually return the licence on demand. If.

however, the proprietor has any complaint to make against a driver, he may retain the licence for not more than twenty-four hours; and the Act provides a summary method of dealing with his complaint. The proprietor must, within twenty-four hours of being asked to deliver up the driver's licence, apply to the police court of the metropolis which has jurisdiction where he (the proprietor) lives, must deposit the licence with the court, apply for a summons against the driver, and appear to prosecute his complaint at the time mentioned in the summons. If he fails to do so, the driver may apply for a summons against him, and may recover compensation from him if, in the opinion of the magistrate, the conduct of the proprietor has been unjust in retention of the licence or dilatory in prosecuting the matter (*ibid.* s. 24).

#### (7) *Entries by Employer on Licence*

The proprietor must enter in the columns provided upon the licence for the purpose his name and address, and the days on which the driver entered and left his service (*ibid.* s. 9).

To enter anything more than this amounts to defacement of the licence and is a "matter of complaint" under sect. 22 of the Act, in respect of which the driver may apply to a magistrate for compensation (*Hurrell v. Ellis* (1845), 2 C. B. 295; *Rogers v. Macnamara* (1853), 14 C. B. 27; *Heath v. Brewer* (1864), 15 C. B. (N. S.) 803; *Norris v. Birch*, [1895] 1 Q. B. 639; and see *ante*, p. 176).

If a licence is revoked or suspended, the proprietor must deliver it to the magistrate if required to do so (*ibid.* s. 25).

#### (8) *Driver's Ticket*

When a licence to drive is granted the Commissioner must supply to the driver a metal ticket stating that he is a licensed driver, and bearing a number corresponding with that inserted in the licence (Act of 1843, s. 9).

So long as a driver is plying for hire he must wear this

ticket "conspicuously upon his breast" so that the writing upon it is distinctly legible, and he must produce the ticket for inspection if desired, and allow anyone to note what is upon it, and if he is called upon to appear before a magistrate he must appear with his ticket in the same position (*ibid.* s. 17). The penalty for breach of these provisions is a fine not exceeding 40s. When his licence comes to an end he must deliver it and his ticket to the Commissioner of Police within three days of the date when the licence expires, and is liable to a penalty not exceeding £5 for wilful neglect to do so. He is also liable to the same penalty if he makes use of a ticket after the licence with which it was issued has expired (*ibid.* s. 18). If a driver loses his ticket or if it becomes defaced, he can have a new one issued to him, provided he satisfies the Commissioner of Police that the ticket has been lost, on payment of a sum not exceeding three shillings, and on giving up the defaced ticket if he still has it in his possession; but if the old ticket be lost and be afterwards found by the driver, he must within three days give it up to the Commissioner of Police; and if he neglect to do this or uses a ticket which has become defaced he is liable to a penalty not exceeding 40s. (*ibid.* s. 19). He is liable to the same penalty if he uses or wears a ticket after it has become defaced or obliterated so that the writing on it is not distinctly legible (*ibid.* s. 19). Forging or procuring the forgery of a driver's ticket or selling, exchanging or exposing for sale, or uttering or being in possession of a forged ticket without lawful excuse, which it is for the holder to establish, or aiding or abetting anyone so doing, is a misdemeanour, and may be punished by fine or by imprisonment with hard labour.

### (9) *Endorsement of Licence*

If a driver is convicted by a magistrate, the magistrate is bound to endorse upon the licence the nature of the offence and the penalty inflicted (London Hackney Carriages Act, 1843, s. 21).

*(10) Renewal of Licence*

Licences to drive hackney carriages must be renewed year by year, and it is important to proprietors of such vehicles to make sure that such renewal is duly carried out by the drivers employed by them.

The Commissioner is not bound to renew an existing driving licence, and it has been held that he may withhold or absolutely refuse renewal on grounds of the fitness of which he is the absolute judge (*R. v. Commissioners of Police* (1864), 28 J. P. 438; *Ex parte Mitcham* (1864), 5 B. & S. 585). But it is doubtful whether the powers of the Commissioner to refuse renewal are in law greater than his power to refuse to issue a licence in the first instance. The applicant for renewal may be required personally to attend and make the application (*Banton v. Davies* (1892), 56 J. P. 294).

When the licence expires the holder must deliver both the licence and his metal ticket up to the Commissioner within three days, and is subject to a penalty not exceeding £5 if he wilfully neglects so to do, or uses a ticket after the licence has expired (Act of 1843, s. 18).

*(11) Offences as to Licences*

Licences are strictly personal to the holder of them, and it is an offence for him to lend or purport to transfer the licence to any other person without leave, or to allow any other person to make use of the licence.

The licence holder must, when at work or when appearing before a magistrate, have with him the official copy of his licence, and must produce it to an authorised police officer on demand under a penalty of 40s. (Cab Order, 1917, Art. 36).

To forge or counterfeit or procure the forgery of a licence, or to sell, exchange or expose for sale or utter any forged or counterfeited licence, or to aid and abet anyone in doing so is a misdemeanour (London Hackney Carriages Act, 1843, s. 20).

And it is a misdemeanour knowingly to have or be possessed of a forged or counterfeit licence without lawful excuse, the burden of proving such excuse being on the defendant, or to aid or abet anyone so to do (*ibid.*).

And anyone may detain a forged or counterfeit licence (*ibid.*).

#### (b) RELATIONS BETWEEN OWNERS AND DRIVERS

##### (1) *Written Contract of Employment necessary*

By the Act of 1843, s. 23, it is provided that payment of money claimed by the proprietor of a hackney carriage from the driver shall not be enforced, unless it be due under an agreement in writing signed by the driver in the presence of a competent witness.

Thus it is in practice essential that these contracts of employment should be so prepared and executed, although it is not legally required that this should be done otherwise than in this indirect way.

##### (2) “*Matters of Complaint*”

Under sect. 22 of the Act of 1843, wide powers are given to magistrates to hear and determine all matters of complaint between proprietors and drivers of hackney carriages, and to deal with them. The magistrate may order either party to pay the other any sum that shall appear to be due to either of them for wages or earnings or on account of any deposit of money. He may order a cab-driver to compensate the proprietor for injury done to the property of the proprietor which has been entrusted to his care, or to repay to the proprietor any sum which a justice has ordered the proprietor to pay out in consequence of the negligence or misconduct of the driver.

And he may in general order either party to make such compensation as he (the magistrate) thinks proper to the other for any matter of complaint. The words are very general and seem to extend the jurisdiction of the justice even to matters wholly extraneous to the licence

of the driver ; but the magistrate has special powers with regard to the licence which is before him.

Complaints under this Act must be made within seven days next after the cause of complaint has arisen (s. 38).

Penalties may be ordered to be paid by instalments, and imprisonment may be ordered in default of payment (s. 39).

Witnesses may be summoned to attend and fined for refusal to attend or to give evidence (s. 42).

### (3) *Responsibility of Owner for Acts of Driver*

The relation between the owner and the driver of a hackney carriage or stage vehicle is, in some cases, the ordinary relation of master and servant with the ordinary legal degree of responsibility attaching thereto (*Irwin v. Waterloo Taxi-Cab Co., Ltd.* (1912), 28 T. L. R. 567). But in numerous other cases their relations are of a special kind by reason either of the terms of service, or of special statutory provisions, or by reason of both these causes in conjunction.

Apart from the effect of statutory provisions, the relation of the driver of a hackney carriage to the proprietor is frequently that not of a servant but of a co-adventurer or quasi-partner or bailee.

A very usual arrangement is that the proprietor provides the carriage and hands it over to the driver, on the terms that the latter shall ply with it for hire, and be entitled to retain a proportion of whatever he may succeed in earning with the vehicle.

In such a case the driver is not, in law, the servant of the proprietor and the proprietor has parted, for the duration of the arrangement, with his control over where the vehicle shall go and how it shall be conducted.

The extent of the liability of the proprietor for the actions of the driver is not difficult to ascertain, on the facts of each particular case, by the application of general legal principles, and such is the position in all cases which do not come within the provisions of the London Hackney

& Stage Carriage Act, 1843, that is to say, in all cases outside the metropolitan area.

But in cases within the metropolitan area the proprietor is by that Act (see especially s. 28) placed under a liability to members of the public, for damage resulting from the misconduct or negligence of the driver, which is independent entirely of the measure of his liability, apart from that statute, by the operation of general law.

In all cases which are within the scope of the Act this liability of the proprietor is absolute as between himself and any member of the general public (*Morley v. Dunscombe* (1848), 11 L. T. (O. S.) 199; *Powles v. Hider* (1856), 6 E. & B. 207; *Venables v. Smith* (1877), 2 Q. B. D. 279; *Playle v. Kew* (1886), 2 T. L. R. 849; *King v. London Improved Cab Co., Ltd.* (1889), 23 Q. B. D. 281; *Keen v. Henry*, [1894] 1 Q. B. 292; *Gates v. Bill*, [1902] 2 K. B. 38; *Kemp v. Elisha*, [1918] 1 K. B. 228).

This special liability does not, of course, affect the relations of the proprietor and the driver, *inter se*. See *Doggett v. Waterloo Taxi-Cab Co., Ltd.*, [1910] 2 K. B. 336; *Smith v. General Motor Cab Co., Ltd.*, [1911] A. C. 188.

And the special liability is thrown only upon whomsoever is, in fact, the proprietor of the vehicle, and the register of proprietors is not conclusive evidence as to who is, in fact, the owner (*Kemp v. Elisha (supra)*).

And the special liability will not attach where a volunteer driver takes charge of the vehicle in an emergency (*Gwilliam v. Twist*, [1895] 2 Q. B. 84), or where the conductor of a vehicle drives it and there is no proof that he was authorised by the proprietor so to do (*Beard v. London General Omnibus Co., Ltd.*, [1900] 2 Q. B. 530).

But it should be noted that a driver, taking out a cab on the terms that he should go with it where he would and carry whatever passengers he accepted and be remunerated wholly by retaining part of the earnings, has been held to be a "servant" for the purposes of the criminal law upon charges of falsifying accounts (by the improper use of the taximeter so that the takings were not duly recorded).

and upon a charge of larceny (*R. v. Solomons*, [1909] 2 K. B. 980; *R. v. Messer* (1911), 76 J. P. 124).

And the proprietor of a vehicle has been held to be liable to the driver for injuries caused to him by reason of the vehicle entrusted to him being so defective as not to be reasonably safe for use (*Gibbons v. Standon* (1867), 16 L. T. 497; cp. *White v. Steadman*, [1913] 3 K. B. 340).

By sect. 63 of the Town Police Clauses Act, 1847, if damage is caused to the person or property of a member of the public by reason of the misconduct of the driver or conductor of a hackney carriage or omnibus, justices may award compensation to the injured party up to but not exceeding £5, which the proprietor of the vehicle is liable to pay.

If an injured party consents to compensation being so awarded, the award is a bar to any further action in which he seeks to recover further compensation for the injury (*Wright v. London General Omnibus Co., Ltd.* (1877), 2 Q. B. D. 271).

#### (4) *Production of Driver by Owner*

Sect. 35 of the Act of 1843 gives justices large powers of summoning *owners* before them when a complaint is made to such justice of the conduct of the driver of that owner's motor cab. If the owner fails to produce the driver, the justice may, if he thinks fit, fine the owner 40s. When owners are summoned to produce a driver they must notify the driver, who may be fined and arrested if he does not attend as notified and produce his licence.

#### (5) *Relations as to Penalties for Offences*

The London Hackney Carriage Acts contain a number of clauses which give to justices special jurisdiction in matters with which those Acts deal. The procedure in such cases is regulated by the Acts (see sects. 62 and 63 of the Act of 1831, and sects. 5 and 6 of the Act of 1833).

The justices have power to mitigate penalties and to

distribute them, one half going to the Crown and one half to the informant (*ibid.* sects. 68-71).

Sects. 27, 28 of the Act of 1831 provide that penalties and costs incurred by reason of any offence committed by the driver of a motor cab against the provisions of the Act may be recovered from the proprietor, if necessary by distress or sale of his goods; and the proprietor may recover such penalties and costs summarily from the driver, if necessary by distress and sale of his goods; but if the driver has been previously convicted of the offence, then the order for payment and sale and distress may be made and executed on him directly.

(6) *Driver Permitting Unauthorised Person to Drive*

By sect. 27 of the Act of 1843 drivers are forbidden, under a penalty of 40s., to hand over their vehicles to other persons to drive, whether those other persons are licensed or not, without the consent of the proprietor. Any person who drives a cab or omnibus which has been thus unlawfully handed over to him is liable to a similar penalty and may be arrested without warrant by a constable, who may take him before any justice of the peace to be fined. The vehicle which he is driving may also be seized by the police and kept until it is applied for by the proprietor.

If a driver charged with this offence refuses to give particulars of the identity of the other person when required by a magistrate so to do, he is liable to a penalty of 40s.

(c) LICENCES TO DRIVERS AND CONDUCTORS OF STAGE CARRIAGES

Drivers and conductors of any "metropolitan stage carriage" must have licences.

(1) "*Metropolitan Stage Carriage*"

By sect. 2 of the Act of 1843 "metropolitan stage carriage" is not precisely defined, but "shall include every stage carriage except such as shall on every journey go to or come from some town or place beyond the limits

of the City of London and the liberties thereof and Metropolitan Police district." See also sect. 5 of the Act of 1869.

By sect. 4 of the Act of 1869 a "stage carriage" for the purposes of that Act is defined to mean "any carriage for the conveyance of passengers which plies for hire in any public street, road or place within the limits of this Act, and in which the passengers or any of them are charged to pay separate and distinct or at the rate of separate and distinct fares for their respective places or seats therein."

This definition is adopted also in the London Cab and Stage Carriage Act, 1907, by sect. 6 (1) of that Act.

By sect. 3 of the Act of 1907 the Home Secretary may, by general or special order, apply to stage carriages which on every journey go to or come from some town or place beyond London, or to any class of such stage carriages, any provisions of the Acts relating to stage carriages in London from which they are exempted by virtue of sect. 2 of the Act of 1843 or sect. 5 of the Act of 1869, and such order may apply such provisions with such exceptions as the order may make.

By virtue of this power sect. 17 of the Cab Order, 1917, applies all Acts and orders relating to stage carriages in London to all carriages using a tramway or light railway, and to all carriages in the form of an omnibus, char-a-banc, waggonette or cab, and to all other vehicles intended or used to convey passengers and plying for hire in any street, road or place, and in which the passengers or any of them are charged to pay separate and distinct or at the rate of separate and distinct fares for their respective places or seats therein, and which on every journey go to or come from some town or place beyond London, except four-horse stage coaches and any other vehicles which may from time to time be specially exempted from this provision by order.

## (2) *Provisions as to Licences*

The provisions as to these licences for the drivers and conductors of stage carriages are generally the same as those which govern the licences given to the drivers of

hackney carriages or motor cabs. But a licence may be granted to a conductor who is not less than twenty or, on the written request by a proprietor, to an assistant conductor who is not less than sixteen (Cab Order 1917, Arts. 18 & 19). Forms of licence are set out in Schedules F, G, M and N of the Cab Order, 1917. No person under twenty shall act or be employed as assistant to a conductor unless the vehicle is in charge of a fully-licensed conductor (Cab Order 1917, Art. 35).

The licences must be kept by the proprietors who employ the men who hold them, and the men also receive a ticket which they must wear, as is the case with cab-drivers, and deliver up, in the same way, to the Commissioner of Metropolitan Police when the licence corresponding to it expires. Agreements between drivers or conductors of stage carriages and proprietors require to be in writing, as in the case of agreements with cab-drivers, and disputes between them may be settled summarily by a magistrate in the manner described above. The Act of 1869 (c) made the same provision with regard to drivers and conductors as with regard to cab-drivers, and their rights and duties are, as regards driving licences, now governed by the Act of 1843 as amended by that of 1869 and the Cab Order of 1917.

By the Cab Order 1917, Art. 18, upon the special recommendation of a proprietor a licence may be granted to a person over age to act alternately either as driver or as conductor of a stage carriage.

### (3) *Liability of Owner for Offences*

With regard to stage carriages in London, summary courts are given power to deal with offences against the Stage Carriage Act, 1832 (d), by sect. 103 of the Act; and the right of appeal to Quarter Sessions which was given by the last part of that section still remains. The provisions

(c) 32 & 33 Vict. c. 115, sect. 8.

(d) 2 & 3 Will. 4, c. 120. The summary jurisdiction is limited to offences for which the offender may be fined £20 or less

of the Hackney Carriage Acts, which are still operative and relevant to the management of stage carriages, are not numerous, but so far as they are so, a breach of them is punishable summarily if the fine be not more than £20, and owners may be ordered to pay any penalty which a magistrate adjudges a driver or conductor to pay if the driver is not known or cannot be found (*e*). But the owner must be discharged by the magistrate if he proves that the driver or conductor committed the breach of the Act without the owner's knowledge or consent, and that he, the owner, has gained nothing by it and has done his best to find the driver (*f*), and answered fairly all inquiries about him. It is not clear that an owner who becomes liable to a penalty in the absence of the driver can appeal to Quarter Sessions, for he is not an "offender" under section 103 if he has committed no offence. But the owner is entitled to be discharged by the magistrate if he satisfies all the conditions laid down in section 49. Sections of the Act which are still in force (*g*) regulate the service of summonses and notices, and the manner of selling distrained goods.

The provisions for summary jurisdiction in the Act of 1832 are extended to the Railway Passenger Duty Act, 1842 (*h*): so that penalties provided under that Act are recoverable summarily. So far as penalties for carrying too many passengers and not having particulars properly painted on the omnibus are concerned, any party can inform and prosecute for them, but he must inform or complain within ten days of the offence; and prosecutors may not proceed under this Act against both driver and conductor, but only against one of them (*i*).

The provisions of sect. 22 of the London Hackney Carriage Act of 1843 as to settlement by magistrates of disputes between driver and owner apply to drivers and

(*e*) Act of 1832, sect. 49.

(*f*) *Ibid.* *q.v.* for details.

(*g*) 105, 109, and 115, *q.v.* Sect. 115 is useless as it is consequential on a part of sect. 103 which has been repealed.

(*h*) By sect. 18 of that Act (5 & 6 Vict. c. 79).

(*i*) 5 & 6 Vict. c. 79, sect. 18, and see sect. 19 as to evidence.

conductors of motor omnibuses, as well as to drivers of cabs, and the later provisions (*k*) of that Act with regard to the ordering of owners to produce the driver, the hearing of all complaints for offences against the Act of 1843 or *future Acts* so far as they relate to hackney carriages, service of summons, distraint and penalties, apply also to complaints and offences of and regarding drivers and conductors of motor omnibuses. Under sect. 12 of the Metropolitan Streets Act, 1867 (*l*), penalties are awarded for breach of the regulations of the Act, and these penalties could no doubt be recovered summarily under sect. 36 of the Act of 1843, though summary procedure is not authorised by the Act of 1867. Sect. 13 of the Act of 1869 (*m*) authorises summary procedure for recovery of penalties under that Act.

(*d*) LICENSING OF HACKNEY AND STAGE CARRIAGES

(1) *When Licence required*

By sect. 7 of the Metropolitan Public Carriage Act, 1869, if any hackney or stage carriage plies for hire (*n*) without a proper licence so to do, the owner of the vehicle is liable to a penalty, at the rate of not exceeding £5 a day, for every day that the offence continues.

And a penalty of not exceeding £5 is also imposed for each occasion on which any unlicensed hackney carriage is found on any stand within the limits of the Act.

As regards the licensing of vehicles for use as hackney and stage carriages, it is not necessary to consider any statutes earlier than the Metropolitan Public Carriage Act, 1869.

This Act enabled one of the Principal Secretaries of State to license hackney and stage carriages to ply for hire (*n*) within the City and Liberties of London and the Metropolitan Police District. The Metropolitan Police District, as has been already shown, extends far beyond

(*k*) Sects. 35-46, dealt with above, p. 186.

(*l*) 30 & 31 Vict. c. 134.

(*m*) 32 & 33 Vict. c. 115.

(*n*) As to what is "plying for hire," see *post*, p. 193.

the County of London, and where the County of London ceases, the Public Health Act, 1875, is in force, and by sect. 171 of that Act the provisions of the Town Police Clauses Act, 1847, which relate to hackney carriages are incorporated in that Act. In that part, therefore, of the Metropolitan Police District which is outside the County of London, there would, on the face of the statutes, appear to be two authorities (the metropolitan police and the urban authority) who have the power of licensing public motor vehicles and drivers, and a cab or omnibus proprietor might apply to either. Applying the maxim *Generalia specialibus non derogant*, however, and having regard to the case of *Barker v. Edger*, [1898] A. C. 748, we submit that the general provision of the Public Health Act, 1875, does not override the particular and local enactments relating to the Metropolitan Police District, or furnish an alternative procedure with regard to vehicles covered by these enactments, and that the Legislature, having dealt in detail by the Act of 1869 with the licensing of vehicles in that district, must be assumed not to have intended to make fresh provisions on the same subject by the quite general wording of sect. 171 of the Act of 1875.

It must be observed that, by sect. 15 of the Act of 1869, "All the provisions of the Acts relating to hackney carriages and metropolitan stage carriages in force at the time of the commencement of this Act shall, subject to any alteration made therein by this Act or by any order or regulation of the said Secretary of State made in pursuance of this Act, continue in force, and all such provisions of the said Acts as relate to licences granted under those Acts, or any of them, shall, subject to any alteration as aforesaid, apply to licences granted under this Act." This section, which comes at the end of the Act, might more properly have come at its outset, for it gives the executive very wide powers, and would seem to empower the Home Secretary to repeal and revise Acts of Parliament by a simple order, so long as that order is within the limits within which the executive is empowered to make orders.

(1A) *Plying for Hire*

Whether a vehicle is plying or is used to ply for hire is a question of fact in most cases quite simple to determine, but a considerable number of cases have come before the courts on account of the fact that the Town Police Clauses Act, 1847, s. 38, deals with plying for hire "in any street," and the London Hackney Carriage Act, 1831, s. 4, with plying for hire "in any public street or road," while the Metropolitan Public Carriage Act, 1869, s. 4, and the Town Police Clauses Act, 1889, s. 3, deal with plying for hire without any such words of limitation.

"Plying for hire" takes place whenever business is sought with a vehicle from the public and the vehicle is held out for use by the public or by some particular section of the public (*Bennett v. Blackpool Board of Health* (1859), 28 L. J. M. C. 203; *Allen v. Tunbridge* (1871), L. R. 6 C. P. 481; *Clarke v. Stanford* (1871), L. R. 6 Q. B. 357; *Bateson v. Oddy* (1874), 43 L. J. 131; *Foinett v. Clark* (1877), 41 J. P. 359).

There cannot be any plying for hire unless there is either solicitation or waiting to secure passengers, by the person in control of the vehicle, without any previous contract with such passengers, and the owner of or person controlling the vehicle who engages in or authorises the solicitation is in possession of the vehicle for which trade is solicited. Thus where passengers were obtained first and a vehicle hired to carry them later, and these passengers were by agreement picked up in various streets, no other persons being picked up, this was held not to amount to plying for hire (*Sales v. Lake*, [1922] 1 K. B. 553).

The question being one of fact and not of form, a vehicle does not cease to ply for hire because no fares are as such demanded, but the proprietor relies upon "voluntary contributions" from passengers (*Cocks v. Mayner* (1894), 58 J. P. 104).

The distinction between plying for hire and privately letting out a conveyance for hire is well illustrated by the case of *Cavill v. Amos* (1900), 64 J. P. 309.

There the proprietor of a hackney carriage, plying for hire, was invited to carry a party of persons too large for the hackney carriage, and told the party that he had a waggonette at his stables which could hold them. The party accordingly went to the stables and engaged the waggonette, and it was held that there was no plying for hire with that vehicle.

Where the question is whether a vehicle is "used in standing or plying for hire" it must be determined with regard to the general use of the vehicle and not with regard merely to the use to which it was being put at a particular moment. Thus it is an offence for the number plate of a hackney carriage to be concealed even if, at the time of the concealment, the carriage was employed upon work for which an unlicensed carriage might have been employed (*Hawkins v. Edwards*, [1901] 2 K. B. 169).

Plying for hire "in a street" or "in any public street or road" is also a matter of fact to be determined in each case according to the particular circumstances.

Standing on an open unenclosed piece of private ground between an hotel and the highway, in a railway station, on the approach from the highway to a railway station, and on a road leading to a station and belonging to the railway company have all, in particular cases, been held not to be so plying for hire (*Skinner v. Usher* (1872), L. R. 7 Q. B. 423; *Case v. Storey* (1869), L. R. 4 Ex. 319; *Curtis v. Embery* (1872), L. R. 7 Ex. 369; *Jones v. Short* (1900), 64 J. P. 247).

On the other hand, standing on a space in front of and let with an hotel, but to which the general public had free access, was held to be standing in "a street" (*Marks v. Ford* (1880), 45 J. P. 157).

## (2) Application for Licence

The proprietor of a vehicle with which he desires to ply for hire in the metropolitan area must apply for a licence to the Commissioner of Metropolitan Police, who, in these matters, by virtue of the Act of 1869, ss. 11 and 12,

and the Cab Order, 1917, Art. 1, acts as the representative of the Home Secretary.

The powers which the Commissioner so exercises are those conferred upon the Secretary of State by sect. 6 of the Act of 1869.

By that section the licence shall, unless revoked or suspended, be in force for a year and be issued for a fee not exceeding two guineas, and may be granted under such conditions and in such form and subject to revision or suspension in such events and generally be dealt with in such manner as the Secretary of State may prescribe by Order. See Cab Order, 1917.

No licence may be granted by the Commissioner to any person under age, and any licence so granted is void (Cab Order, 1917, Art. 4). In certain other cases the Commissioner has a measure of discretion as to whether a licence shall be issued or refused.

### *(3) Discretion of the Commissioner*

The discretion of the Commissioner is limited to refusing licences to applicants who have been convicted of an indictable offence, or of cruelty to animals within the meaning of the Protection of Animals Act, 1911, or have held a licence previously and have had it suspended or revoked, or fail to satisfy the Commissioner that the vehicle conforms to the prescribed conditions of fitness, or fail to satisfy him that they are of good character, or that they, or the firm or company on behalf of which they are applying, are of good business repute or financial standing (Cab Order, 1917, Art. 4).

The prescribed conditions of fitness are very detailed in character and, so far as motor cabs are concerned, are contained in an Order of the Commissioner dated March 14 1910, and so far as motor omnibuses and stage carriages are concerned, in an Order of August 30, 1909, to which reference must be made by those requiring full information.

At the conclusion of the conditions the Commissioner purports to reserve power to refuse a licence if the cab is, in his opinion, unfit for public use for any reason of construction, form, working or general appearance, even though it complies with all the specific conditions before set out. It may be open to doubt whether some methods of exercising this power could not be challenged as *ultra vires* if a suitable case arose, and whether this proviso can be construed as one of the conditions of fitness.

Apart from those special cases the Commissioner is under a duty to license and has no discretion to decline to do so (*Ex parte Holloway*, [1911] 2 K. B. 1131; over-ruling *Ex parte Pearce* (1910), 80 L. J. K. B. 223; see also *Ex parte Randall* (1911), 27 T. L. R. 505).

If the application is for a licence to ply for hire with an omnibus, and the application is refused or the licence is made subject to conditions, the applicant can appeal under the Roads Act, 1920, s. 14, to the Minister of Transport, who can make such order as he thinks fit, which order is final. For this purpose "omnibus" includes every omnibus, char-a-banc, waggonette, brake, stage coach or other carriage plying for hire or used to carry passengers at separate fares.

#### (4) *Method of Application*

A person desiring a licence for a cab or stage carriage must apply at the Commissioner's office or other prescribed place in the form set out in Schedule A or Schedule B of the Cab Order, 1917, as the case may be (Cab Order, 1917, Art. 2).

If the application is on behalf of a partnership or company it must be made by the senior partner, or by the secretary, manager or other responsible official of the company as the case may be (*ibid.* Art. 3).

If the application is approved the vehicle must be brought to a passing station or other prescribed place for examination, and the approved application handed to the Inspector of Public Carriages (*ibid.* Art. 8).

### (5) *Plates*

The Inspector, if satisfied that the vehicle is fit for public use, must fix two "number plates" on it, and also an approval mark, and must sign a certificate in the form set out in Schedule C of the Order (Cab Order, 1917, Art. 9).

One number plate must be outside and one inside the vehicle; and the way in which they are to be fixed is prescribed in the Order. If the vehicle in question is a hackney carriage or cab (terms which are synonymous for this purpose), the Inspector must also fix a plate, called the "fare plate," to it on which the hirer can read what fares he is liable to pay (*ibid.*). A licence is then issued to the applicant (*ibid.* Art. 10). To conceal or remove a plate or to alter or obliterate any mark thereon is an offence (*ibid.* Art. 33).

### (6) *Form of Licence*

The licence must be in the appropriate form as set out in Schedules D and E to the Order (*ibid.* Art. 11). It is subject to a number of conditions set out in Art. 13 of the Order, and the applicant is responsible for their observance, whether by himself or by the partnership or company on whose behalf he has applied (*ibid.* Art. 12).

### (7) *Transfer of Licence*

If a proprietor dies during the currency of his licence, his licence must be brought to Scotland Yard, and the Commissioner may transfer it to the personal representatives of the proprietor or to his widow or child, if such child is of full age. If a woman has a licence and marries during its currency, it may be transferred in the same way to her husband. Licences given to companies are given nominally to the secretary or manager. And if, during the currency of a licence issued to the secretary or manager of a company, the secretary or manager is changed, a transfer to his successor may be granted by the Commissioner of Police (Cab Order, 1917, Art. 16). Such transfers are made without charge; see sect. 6 of the Act of 1869.

### (8) *Conditions of Licence*

Art. 13 of the Order of 1917 sets out in detail a number of conditions to which these licences are subject.

Amongst other things this section provides that if, during the currency of the licence, the proprietor changes his address, he must within a week of the change bring his licence to the Commissioner of Police; and the Commissioner of Police is obliged to endorse the change upon it. If he receives notice to do so, the proprietor must within three days deliver up his licence to the Inspector of Public Carriages at the police station of the district in which his (the proprietor's) place of address is situate, and must bring his licensed vehicle there to have the plates removed and handed over to the Inspector. And it provides that the proprietor must not conceal or remove any of the plates fixed on his carriage or alter or obliterate anything on them or any mark put on his carriage by order of the Commissioner. Any licence defaced, or on which there is an erasure, is thereby made void. The section also imposes a variety of further conditions which cannot be regarded as dealing with licensing, although they are by the section made conditions to which the licence is subject; see *post*, p. 199 *et seq.*

### (9) *Revocation or Suspension of Licence*

A licence may be revoked or suspended by the Commissioner if it has been obtained by misrepresentation or if the holder fails to comply with any of the conditions upon which it has been granted, or in any of the events in which a licence might have been revoked or suspended at the time when the Act of 1869 was passed, or if the proprietor commits a breach of the Act or of the Order, or if the Commissioner is of opinion that the licence cannot continue in force without risk to the public or should not be allowed to continue in force because of the conduct of the holder (Cab Order, 1917, Art. 15). The licence may also be withdrawn after the conviction of the holder for injuring or endangering life or property by intoxication,

wanton and furious driving, or other wilful misconduct, or for using abusive language or for assault or obstructing the police (London Hackney Carriage Act, 1831, s. 56). Thus the licence may be suspended if the vehicle be in a condition unfit for public use, and if it be sent out by the proprietor to ply for hire after he has received notice from the Commissioner of Police that it is so. See Metropolitan Hackney Carriages (No. 1) Act, 1853, s. 2.

#### (10) *Defacement of Licence*

Any licence which is defaced or on which there is an erasure is void (Cab Order, 1917, Art. 14).

#### (11) *Return of Expired Licence*

Within three days of expiry the proprietor must return the expired licence to the Inspector of Public Carriages for the district and bring the carriage so that the plates may be unfixed and delivered up (Order of 1917, Art. 29).

#### (12) *Recall of Licence*

Apart from the penalties prescribed by the London Hackney Carriage Acts, the Commissioner of Metropolitan Police has power at any time to take away an owner's licence. This power is given by sect. 13 (c) (5) of the Cab Order, 1917, which compels owners to bring their carriages to a police station at three days' notice, so that the plates may be taken off, and to hand over their licences. There is apparently no limitation to the conditions in which this power is to be exercised, so that it can be used to enforce any conditions which the Commissioner of Police may impose on granting a licence.

### (e) REGULATION

#### (1) OF HACKNEY CARRIAGES

##### (a) *Sources of Regulation*

Motor vehicles which are used as hackney or stage carriages must comply with the special regulations

applicable to such carriages as well as with the laws and regulations governing all motor vehicles, except in so far as the latter are expressly made inapplicable to them.

The special regulations with regard to hackney and stage carriages in the Metropolitan area are numerous. They are made partly by direct provisions of Acts of Parliament and partly by orders of the Secretary of State and of the Commissioner of Metropolitan Police, issued in pursuance of the powers given to them by Acts of Parliament.

The Acts under which the Home Secretary and the Commissioner of Metropolitan Police now have power to make such orders are the London Hackney Carriage Act of 1843, the Metropolitan Public Carriage Act of 1869, and the London Cab and Carriage Act of 1907 (*o*); and the Commissioner of Police has also some powers of regulation under the Metropolitan Police Act, 1839 (*p*), and, subject to the approval of the Secretary of State, under the Metropolitan Streets Act, 1867 (*q*).

The earliest statute that need here be considered is the London Hackney Carriage Act, 1831 (*r*). Sect. 37 of that Act authorises plying on Sundays, in spite of any previous Acts to the contrary, and provides that hackney carriages which ply on Sundays shall be under the same obligations as on other days. Sect. 48 of the Act required all proprietors to provide check strings or wires, and that the driver should hold them in his hand for the accommodation of passengers, a provision which is repeated and continued by the Commissioner of Metropolitan Police in his regulations of July, 1908, with the modification that "some other means of communication between the passenger and the driver" may be substituted for the string or wire. With regard to waggons, carts, and such-like carriages which are used within five miles of St. Martin's-le-Grand, it is provided by sections 59 and 60 that they must bear

(*o*) 6 & 7 Vict. c. 86; 32 & 33 Vict. c. 115; and 7 Edw. 7, c. 55.

(*p*) 2 & 3 Vict. c. 47.

(*q*) 30 & 31 Vict. c. 134.

(*r*) 1 & 2 Will. 4, c. 22.

the name and address of the principal owner clearly painted, in black on white, or white on black, on the right shaft ; and *any person* may arrest and detain in a proper place any waggon which violates this regulation (s).

The London Hackney and Stage Carriage Act, 1843, also contains some provisions which fall properly under the head of regulation.

### (β) *Stands*

By sect. 30 of the Metropolitan Carriage Act, 1869, it is provided that cab stands must be fixed in the centre part of streets except in the case of streets which have houses only on one side, and the following section forbids motor cabs to stand or ply opposite any part of the General Post Office in St. Martin's-le-Grand (t). The London Hackney Carriage Act of 1850 authorises the Commissioner to appoint hackney carriage stands at convenient places, and to define their limits, settle the number of cabs which may stand there, and the times within which they may do so, and to make regulations for keeping order there and removing loiterers at the stands (u).

By the London Hackney Carriage Act, 1853, s. 12, and the Metropolitan Public Carriage Act, 1869, s. 9 (2), persons may be appointed to keep good order at stands and places where hackney carriages ply for hire, but the consent of the directors is necessary before such a person may act on premises belonging to a railway company.

By the Metropolitan Public Carriage Act, 1869, it is provided that the position of stands in the City of London shall be subject to the approval of the Lord Mayor and Aldermen.

(s) We assume that these provisions might be held to have some application to motor waggons. The provision is outside the general scope of the Act, since it applies to vehicles which may not be plying for hire at all. The penalty is £5.

(t) Plying and standing there, or opposite the General Post Office in London, are also forbidden by the Post Office Act, 1908 (8 Edw. 7. c. 48, sect. 68), with a penalty up to £5.

(u) See Regulations, *London Gazette*, May 20, 1910.

*(γ) Liability to be Hired*

By the London Hackney Carriage Act, 1831, s. 35, every hackney carriage found standing in any street with the plates required by the Act affixed to it shall, unless actually hired, be deemed to be plying for hire even if it is not on a stand or at a place usually appropriated for hackney carriages standing or plying for hire, and any person may hire it, the penalty for refusal to be hired being forty shillings.

It has been held in *Case v. Storey* (1869), L. R. 4 Ex. 319, that a hackney carriage standing in a railway station is not in a street or place within the meaning of this section, but it may be observed that a station has been held to be a "place" under the London Hackney Carriage Act, 1853, s. 17 (*Ex parte Kippins*, [1897] 1 Q. B. 1), a decision which appears to be inconsistent with the earlier one unless the two cases can be distinguished by construing the earlier statute to mean a public street or place.

By the London Hackney Carriage Act (No. 1), 1853, the driver must, unless he has a reasonable excuse, drive to any place as required by the hirer within six miles of the place of hiring or for any time not exceeding one hour from the time of engagement. But by Schedule A of the Act it is provided that engagement by time may be declined between the hours of 8 P.M. and 6 A.M.

By the Cab Order, 1917, Art. 39, it is provided that a hirer is presumed to engage and must pay for the carriage on the basis of distance, unless he has expressly engaged it on the basis of time.

If engaged by time the driver may be required to drive at any rate not exceeding four miles an hour. If required to go faster he may demand in addition to the fare by time the fare by distance for every mile or part of a mile over four which he covers in the hour.

This section, by referring to a reasonable excuse and leaving the justice to decide if the excuse is reasonable, if complaint is made of refusal, presumably modifies the

provision of the Act of 1831 where being already hired was the only excuse for refusal.

Clearly, for example, it would be a reasonable excuse if the motor had broken down, or if the cab had already gone the full distance, and the hirer desired to begin a fresh hiring against the driver's will.

It is not clear how far these provisions may be regarded as applicable to motor taximeter cabs at all, as they were designed for horse-drawn cabs and are designed for the conditions of such traffic and not for modern conditions or fast-moving traffic.

In the event of refusal the person refused may complain to a justice, and if the complaint is made out the penalty provided will be imposed upon the driver. If, on the other hand, it is proved that the driver had a proper excuse and civilly and explicitly so informed the would-be hirer, the driver may be awarded compensation for the time lost in answering the complaint, and there is power to enforce payment of this by imprisonment (Act of 1831, s. 36).

#### (δ) *Fares*

As every motor cab is required by the Cab Order, 1917, Art. 38, to be fitted with a taximeter of a form approved by the Commissioner, it is only necessary here to consider taximeter fares.

A taximeter is defined by the London Cab and Stage Carriage Act, 1907, s. 6, as an appliance for measuring the time or distance for which a cab is used, or for measuring both time and distance, which is for the time being approved for the purpose by or on behalf of the Secretary of State.

By s. 1 of that Act, power is given to fix by regulations the fares to be paid for the hire in London of cabs fitted with taximeters on the basis of either time or distance or both, and so as to differ for different classes of cabs and under different circumstances.

By Arts. 40 and 41 of the Cab Order, 1917, fares for motor cabs fitted with a taximeter are fixed as set out in Schedule K of the Order. That Schedule, however, has

been revoked and a new scale substituted for it by Order dated February 20, 1920.

Under that scale for a distance not exceeding one mile or for time not exceeding ten minutes 1s. is fixed, and for each quarter of a mile or two and a half minutes or part thereof an additional 3d. is authorised.

In addition to these fares extra payments are authorised, for each package carried outside, 3d., or for a bicycle, mail-cart or perambulator, 9d., and for each person carried beyond two, 9d. for the whole journey. These extras need not be recorded on the taximeter (Cab Order, 1917, Art. 41).

An infant in arms does not count as a person for this purpose (*Kemp v. Lubbock*, [1920] 1 K. B. 234), and two children under ten count as one person by the Order itself.

The taximeter must be set in motion as soon as the cab is hired and no sooner, and must be stopped on the termination of the hiring (Cab Order, 1917, Arts. 47 and 48).

The driver is guilty of an offence if he demands or takes more than the legal fare (London Hackney Carriage Act, 1853, s. 17), and no agreement between a passenger and driver to pay more than the legal fare is binding; and the passenger who agrees to pay more than the legal fare may, on discharging the cab, lawfully refuse to keep to his agreement; and a passenger who has paid a sum in excess of his legal fare, whether under such agreement or otherwise (such excess fare having been "required or demanded" by the driver), may recover the excess in a summary manner.

A driver and a passenger may, however, make an agreement that the one shall take the other out for a drive for a certain number of miles for a fixed sum of money, provided this sum be not more than the legal fare (*x*). In such a case the driver, though he may have gone more than the stipulated distance, cannot ask for more than the stipulated fare (*y*), and if he demands more than the stipulated fare, even though his demand be far less than the legal fare

(*x*) In the case of taximeter cabs, there is no four-mile radius.

(*y*) Act of 1831, sect. 44. Penalty 40s.

would be, he is liable to a penalty (z). No cab is legally compellable to go more than six miles ; but it is submitted that in the case of drives exceeding that distance, a motor-cab driver is not free to make his own terms, so long as the whole drive is within the metropolitan area. If the driver consents to drive more than six miles within that area, he can only ask the fare laid down by the regulations of the Secretary of State.

In the case of a cab fitted with a taximeter which does not record the fare by a combination of time and distance, when it is hired by distance an extra charge for waiting may be made at the rates set out in Schedule I to the Cab Order, 1917. No such extra is claimable for waiting which does not amount in the whole to fifteen minutes or for a period of less than fifteen minutes over and above a completed period or completed periods of fifteen minutes.

Certain provisions of the London Hackney Carriage (No. 1) Act, 1853, dealing with fares still remain in force. Thus no cabman may charge a "back fare" for coming back from the place where he is discharged ; and drivers must at all times have with them, and produce when a passenger or intending passenger asks for it, a book of fares in the form directed by the Commissioner of Police.

#### (e) *Taximeters*

By Arts. 45 to 49 inclusive of the Cab Order, 1917, various regulations are made as to taximeters, for breach of any of which a penalty not exceeding 40s. is annexed in pursuance of the Metropolitan Public Carriage Act, 1869.

No taximeter may be affixed to any cab unless the seal or mark approved by the Commissioner is affixed to it, and breach of this regulation renders the cab licence liable to suspension or revocation.

Tampering with the seal or mark, or tampering with the taximeter with intent to deceive is forbidden.

The driver is required to set the taximeter in motion

(z) Act of 1831, s. 45.

as soon as he is hired and no sooner, and to stop it upon the termination of the hiring.

(θ) *Number of Persons and Amount of Luggage to be Carried*

The London Hackney Carriage Act, 1853, s. 17, imposes on drivers the duty of carrying the number of persons which the carriage is licensed to carry, or any less number (*a*). To carry a greater number of persons than that which the vehicle is licensed to carry is an offence (Cab Order, 1917, Art. 26). In reckoning the number, one child or two children under ten count as one person (*ibid.*).

*Luggage*

By sect. 17 of the Act of 1853 it is further provided that a vehicle must carry a "reasonable quantity" (*b*) of luggage for every person who is carried, and Art. 43 of the Conditions of Fitness for Public Carriages, dated August 30, 1909, also requires that provision must be made for the safe conveyance of a reasonable quantity of luggage. And by Art. 41 of the Cab Order, 1917, and Schedule H of the Order, the driver may charge an extra 3*d.* for any package carried outside and 9*d.* for a bicycle, mailcart or perambulator.

Persons hiring a motor cab, however many they are, may carry a reasonable amount of luggage inside the cab free of charge.

(s) "Bilking"

Stringent rules are laid down in the Act of 1831 in the case of persons who refuse to pay their proper fare. They

(*a*) The applicant for a cab licence does not have to state in his application how many persons he wishes it to be licensed to carry; and no place for such a statement is to be found in the form of the application which he must now make (Sched. A to the Order of the Home Secretary of May 1, 1917); but the Inspector of Public Carriages, in his certificate on the fitness of the cab, must state how many persons inside and outside it is constructed to carry, and the licence given to the cab must state how many persons the cab is licensed to carry (*ibid.* sect. 25 and Scheds. C, D and E). As to passengers carried "outside," it should be remembered that by sect. 27 of the Order persons are forbidden to ride beside the driver of a motor cab.

(*b*) Act of 1853 (No. 1), sect. 10.

may be summoned or arrested on warrant, and ordered to pay the fare and damages and costs, and may be committed to prison for a month, or less, with hard labour (section 41). Such complaint must be made within seven days of the offence (Act of 1843, s. 38). These provisions have been enlarged by the London Cab Act of 1896, which provides that persons who hire cabs, knowing or having reason to believe that they cannot pay the proper fare, or fraudulently endeavour to avoid payment of a lawful fare, or, when failing to pay, refuse their address, or give a wrongful address, shall be liable in addition to the fare to a penalty of 40s. or fourteen days imprisonment, and that the whole or part of the fine may be given as compensation to the driver.

#### *(κ) Lost Property*

By sect. 11 of the London Hackney Carriage Act, 1853, if property is left in a cab the driver, if the owner of the property does not sooner claim it, must within twenty-four hours take it to the nearest police station and deposit it with the police under penalty of £10 or imprisonment up to one month (see also Cab Order, 1917, Arts. 30 and 31). The property will be returned by the police to the owner on proof of ownership and payment of the expenses and such a sum to the driver as appears to the Commissioner reasonable, regard being had to the value of the property and to what the driver would receive if it were not claimed.

By Art. 44 of the Cab Order, 1917, it is provided that if the property is not claimed within three months and the claim established, the Commissioner shall either sell it and pay over to the driver a proportion of the proceeds or may hand over the property to the driver.

By Art. 30 of the Cab Order, 1917, a driver is required to search the cab for lost property immediately after the termination of each hiring, and by Art. 31 of that Order a passenger who finds property so left must immediately hand it to the driver.

*Advertisements*

Motor cabs must not carry outside any notices, advertisements or printed bill, or any names, letters or numbers in such a way as to obstruct light or ventilation or be an annoyance to the passengers, or carry about any picture or advertisement attached to the carriage to the obstruction or annoyance of the inhabitants or of passengers (London Hackney Carriage Act, 1853, ss. 15 and 16).

*Withdrawal of Cabs*

Proprietors of motor cabs may not withdraw their cabs from hire for two consecutive days, or for any two days in one week, without just cause. The justness of the cause is a matter for the magistrate before whom any proprietor is summoned to determine. The Commissioner of Police may suspend or take away the licence of a proprietor convicted of this offence; but a proprietor, if he gives ten days' notice to the Commissioner of Police, may withdraw his cab from hire (London Hackney Carriage Act (No. 2), 1853, s. 16).

*(μ) Drunkenness, Furious Driving and Misbehaviour*

Any driver who drives wantonly or furiously or causes damage or hurt to any person or property by carelessness or wilful misbehaviour, or who is drunk during his employment, or uses insulting or abusive language or insulting gesture, is subject by the London Hackney Carriages Act, 1843, s. 28, to a fine not exceeding £3 for each offence or to imprisonment not exceeding two months, with or without hard labour. Where damage has been caused, a sum, not exceeding £10, may be awarded by the magistrate to the injured party as compensation, and the proprietor is liable to pay this and costs but can recover it summarily from the driver.

If such an award is made any further action for compensation is barred, so that the injured party may object to the award when he prefers to sue for a larger sum by

independent action (*Wright v. London General Omnibus Co., Ltd.* (1877), 2 Q. B. D. 271).

Penalties for misbehaviour of this character are also imposed by the Stage Carriages Act, 1832, s. 48.

(v) *Permitting Unauthorised Persons to Drive*

See *ante*, p. 187.

(o) *Carriage of Infected Persons*

Before leaving the subject of regulation we must refer to the regulations with regard to the carriage of infected persons which are enforced by the Public Health Act, 1875, and the London Public Health Act, 1891. The Act of 1891 is only in force in the City and County of London. In those parts of the metropolitan area which are outside the county, the law is laid down by the general Act of 1875, so that that Act applies to some carriages within the Metropolitan Police district. By the Act of 1891, s. 70, the owners and drivers of motor cabs and motor omnibuses are forbidden knowingly to convey any person suffering from a dangerous infectious disease, or the corpse of anyone who has died of such a disease, and all persons are forbidden knowingly to place any such person in a motor cab or motor omnibus. If the owner or driver finds out that such a person or corpse has been conveyed by his carriage, he must at once inform the sanitary authority of the fact, and cause his carriage to be disinfected. He is authorised to recover, in a summary manner, from any infected person so conveyed, or the person who has caused the infected person or corpse to be conveyed, any loss or expense incurred by him in connection with such disinfection. The sanitary authority, when asked to do so by the owner or driver, must disinfect the carriage, and may do so free of charge.

(π) *Inspection of Fitness*

The London Hackney Carriage Act (No. 1). 1853, gives considerable powers of regulation. It authorises

the Commissioner to cause inspections of cabs to be made from time to time, and to give notice to the proprietors if their cabs appear to be unfit for public use. This notice must be in writing, and if, after receiving it, the proprietor sends out the carriage to ply for hire, his licence may be suspended.

By Order dated October 17, 1921, the Commissioner has fixed the hours and places where such inspections may take place, and the cab must go to the nearest station to the yard where it stands. If the nearest station is more than three miles distant, a special arrangement will be made on application.

#### *(τ) Various Regulations*

By the Cab Order, 1917, Art. 4 (3), and the published "Conditions of Fitness," dated March 14, 1910, a great variety of regulations are imposed by making them conditions of the licence for the vehicle. For the details reference must be made to the regulations themselves, but amongst them it may be noted :

That no cab may be geared so that it can exceed the speed limit without giving audible warning if the limit is being exceeded.

That approved horns must be carried.

That dazzling headlights are forbidden.

That efficient means must be provided for communication between passenger and driver, keeping windows partially open, preventing them from rattling, ventilation, lighting the taximeter and identification plate, preventing grease being dropped upon the road, avoiding skidding, and extinguishing fire. Motor cabs may not carry advertisements either inside or out.

The Act of 1843, s. 27, penalises loitering, plying for hire except at an appointed standing, delaying on a journey, obstruction, demanding more than the legal fare, and stopping at the bottom of streets.

## (2) OF STAGE CARRIAGES

(a) *Sources of Regulation*

In order to enumerate the provisions with regard to the regulation of motor omnibuses and other stage carriages in the metropolitan area we must refer to the earlier Metropolitan Acts. These provisions are to be found in part in the Acts which apply to hackney carriages, and into which sections dealing with stage carriages have been casually thrown, though, up till 1869, those Acts purported to deal only with hackney carriages; and in part in two different Acts, the Stage Carriage Act, 1832 (c), and the Railway Passengers' Duty Act, 1842 (d).

One point must be carefully borne in mind, that whilst the London Hackney Carriage Acts are in force only in the metropolitan area, the Acts of 1832 and 1842 are general statutes and in force everywhere throughout Great Britain. The provisions of these two general statutes which are noticed here will not be again noticed when we come to deal with the regulation of motor omnibuses outside the metropolis; and those who wish to study their provisions in connection with extra-metropolitan omnibuses will need to refer to this portion of this chapter.

Sect. 7 of the Act of 1832 provides that in any proceeding for penalties under the Act a stage carriage, proved to have been travelling on any road with the particulars painted on it which this Act requires, shall be deemed to be a stage carriage, and such evidence shall be *primâ facie* evidence that it was plying for hire. The definition is not very important now in the metropolitan area, because the Metropolitan Public Carriage Act of 1869, under which proceedings would in most cases be taken, contains a definition of stage carriage: but it may be important in places outside London where "omnibus" and "stage carriage" may not have been defined by local regulations.

(c) 2 & 3 Will. 4, c. 120. This Act was, of course, passed in the times of horse drawn vehicles. Some of its sections (e.g. No. 43) refer to carriages drawn by horses, and these, it is submitted, are inapplicable to motor vehicles.

(d) 5 & 6 Vict. c. 79.

The Act of 1832 requires (*e*) that the full name of the proprietor, or one of the proprietors, be conspicuously painted on *each side* of the carriage and clear of the wheels, and be kept visible by repainting. Omnibuses may not carry an excessive amount of luggage, but such luggage as is carried must be duly taken care of by the driver or conductor. A constable or a passenger may stop any stage carriage so that the luggage may be measured or the number of passengers counted, and refusal to stop for this purpose is punishable by a penalty not exceeding £5.

The Railway Passengers' Duty Act of 1842 (*f*) forbids the carriage of more persons than the vehicle is constructed to carry, allowing proper seats of an average of sixteen inches per person (*g*), and imposes a penalty of £5 for any breach of this provision. Either the driver or the conductor can be prosecuted in this case, but not both. This Act also imposes a penalty of £10 for any omnibus which does not show the number of persons which it is fit to carry clearly painted within and outside (*h*). Any constable or passenger may, if he likes, measure the seats, and if anybody hinders him there is a penalty of £3 (*i*). The London Hackney Carriage Act of 1843 provides (*k*) that the words "metropolitan stage carriage," or such other words as the Commissioner of Metropolitan Police shall direct, shall be clearly painted up inside and outside the carriage. The same Act provides (*l*) for the posting up of a table of fares inside the carriage. The fares so published are the only legal fares, and may be recovered summarily if not paid. A later section in this Act (*m*) authorises the Court of the Mayor and Aldermen of the City of London to make regulations in the City and Southwark for enforcing order at places at which motor omnibuses call and ply for passengers, and for fixing the time during which each such carriage shall be allowed to remain at any other place (*n*).

(*e*) Sect. 36, which see for details.

(*f*) 5 & 6 Vict. c. 79.

(*g*) *Ibid.* sect. 13.

(*h*) *Ibid.* sect. 14.

(*i*) *Ibid.* sect. 16.

(*k*) 6 & 7 Vict. c. 86, s. 7.

(*l*) *Ibid.* penalty 20s.

(*m*) Sect. 32.

(*n*) Penalty for non-compliance, 40s.

The London Hackney Carriage Act (No. 1) of 1853 (*o*) authorises the Commissioners of Metropolitan Police to cause inspection to be made of all motor omnibuses as often as they deem necessary, and to give the proper written notice if they think them unfit; and any proprietor who sends out a motor omnibus after receiving such notice may have his licence suspended. The powers for appointing men to keep order at motor cab stands, and at places where motor cabs call or ply for passengers, and to cause water to be laid on, and pay water rate (*p*) are also given with regard to places where motor omnibuses call or ply. Advertisements or printed notices which obstruct light or ventilation are forbidden in the case of motor omnibuses as in that of motor cabs (*q*). The second Act of 1853 (*r*) provides the same penalties, subject to the same reserves, for withdrawing omnibuses from hire as for the withdrawal of cabs.

The London Cab and Carriage Act, 1907 (*s*), empowers the Commissioners of the Metropolitan or the City Police to make regulations as to stopping places for all motor omnibuses in their areas (*t*). The Cab Order, 1917 (*u*), contains regulations made both under the Act of 1869 and under that of 1907. Some of its provisions are applicable to motor cabs only, others only to motor omnibuses, others to both. Thus the provisions which apply to both, and which fall under the head of *regulation*, are the sects. 1-16 and sects. 18, 20, 21, 23 (*x*), 24, 29, 30, 33, 34, 36, 37, 44 and 50. As these have been already dealt with when we were discussing the regulation of motor cabs, we need only refer readers to the passages in which they are discussed. The Order provides against employing unlicensed drivers, and extends the operation of the London

(*o*) 16 & 17 Vict. c. 33, s. 2.

(*p*) Act of 1853, sects. 12 and 13, *ante*, p. 201.

(*q*) *Ibid.* sect. 15. As to advertisements in motor omnibuses, see the regulations of the Commissioner of Metropolitan Police of August 30, 1909, sects. 58, 59, and Sched.

(*r*) 16 & 17 Vict. c. 127, *ante*, p. 208.

(*s*) 7 Edw. 7, c. 55, s. 3, *post*.

(*t*) *Ibid.* sects. 4, 6 (3).

(*u*) S. R. O. 1917, No. 426. (*x*) As amended by S. R. O. 1919, No. 423.

Acts relating to motor omnibuses to those omnibuses which at every journey go to or come from some town or place beyond London, in accordance with the power given by sect. 3 of the Act of 1907 (*y*).

(*β*) "*London*"

The term "*London*" is not defined in the Order, but is defined by the Act of 1907 (*z*) to mean "the City of London and the Metropolitan Police district," and it may be assumed that "*London*" in the Order means the same as in the Act. If this be so, the result is that motor omnibuses which ply outside the county of London require to be licensed outside the county by the local urban authorities, and must comply with the regulations of those authorities, and must also, if at any point in their journey they come within the Metropolitan Police district, be licensed by the Commissioner of Metropolitan Police, and must comply with the regulations in force in the area of his authority.

(*γ*) *Sundry Regulations*

"Notices to proprietors" of omnibuses in the metropolis were issued by the Commissioner of Metropolitan Police in May, 1907, and on August 30, 1909. These may be easily obtained, and as they deal for the most part with matters of construction and arrangement they need scarcely be discussed in a legal text-book. Sixteen inches must be allowed for each passenger which the motor omnibus is licensed to carry (*a*), and elaborate regulations are made as to the posting up of fares, names and addresses of proprietors, "extreme places" (*b*), and advertisements (*c*). The backs and disposition of seats, the linings, curtains, steps and guard-rails are also dealt with in detail by the notice of 1907.

The regulations made in the later "notice to proprietors" of August 30, 1909, contain many further

(*y*) See *ante*, p. 188.

(*z*) 7 Edw. 7, c. 55, sect. 6 (3).

(*a*) Notice of May, 1907, sect. 1.

(*b*) *Ibid.* sect. 5. Presumably this means the end of the omnibus' journey.

(*c*) *Ibid.* Art. 7, and notice of August 30, 1909, Art. 59.

conditions under which certificates of fitness will be given to these vehicles. We do not propose to discuss these at length since they deal for the most part with technicalities. Like owners of motor cabs, owners of motor omnibuses must get a certificate of fitness from the maker before they apply for the police licence (*d*). A type of omnibus being once approved, other omnibuses of precisely that type may be licensed at the ordinary passing stations and need not be sent to New Scotland Yard (*e*), but the Commissioner may withdraw his approval of any type if, after it has been approved, defects develop, unless these are remedied (*f*). A proprietor applying for a certificate must state the route or routes on which he intends the vehicle to ply, and not depart therefrom without giving due notice to the Commissioner (*g*). After minute regulations as to size and weight, the notice goes on to require two independent brakes and the keeping of them in perfect order. Brakes may be inspected at any time by the police, and omnibuses which ply on hilly roads may be compelled to pass special tests (*h*). The machinery must be so made and kept as to obviate "undue noise or vibration": and every new vehicle must be submitted for inspection and testing in these respects (*i*). Omnibuses must also be fitted with some apparatus for giving audible warning so long as they are exceeding a speed of twelve miles an hour (*k*).

Lubrication and carburation must be so controlled that smoke is not emitted from any part (*l*); and if proprietors do not secure the prevention of smoke the Commissioner will serve them with a notice "not to use" (*m*)

(*d*) Notice of May, 1907, sect. 2.

(*e*) *Ibid.* sect. 3.

(*f*) Notice of August, 1909, sect. 3.

(*g*) Notice of May, 1907, sect. 6.

(*h*) *Ibid.* sects. 10, 11, 12, 13.

(*i*) *Ibid.* sects. 19, 20.

(*k*) This is the limit of speed allowed by the Heavy Motor Car Order, 1904, Art. 7 (p. 297. *post*), so that omnibuses over two tons in weight unladen may never exceed it.

(*l*) Unless the vehicle is so constructed that no smoke or visible vapour comes from it except from some temporary or accidental cause, the vehicle ceases to be a motor car at all (see the definition in sect. 1 of the Locomotives on Highways Act, 1896), and becomes a locomotive, and could be proceeded against under the Locomotives Acts (see *ante*, p. 16).

(*m*) Notice of August 30, 1909, s. 23.

till the defect is remedied. To use the vehicle during the currency of such a notice would be a failure to comply with the specified conditions of fitness, and would render the licence subject to suspension or revocation under Art. 15 of the Cab Order, 1917.

A number of more or less technical conditions appear in the later portions of the notice of August, 1909, as to the exhaust pipe, propeller shaft, and measurements of the body (*n*), and the notice then proceeds to provide more generally as to canopies, seats, steps, ventilation and lights, horns, boxes to show destination, the pointing out of the principal points of route, and other matters (*o*) as to which omnibuses must conform to the Commissioner's requirements; and the notice concludes, so far as regulation is concerned, by stating what notices must be painted up on the omnibus and what advertisements will be allowed (*p*), and with a warning that motor omnibuses will not be licensed if the Commissioner of Metropolitan Police finds anything in their construction, form or general appearance which renders them unfit for public use, even if all conditions laid down in the Order of 1909 have been complied with (*q*).

#### (δ) *Carriage of Infected Persons*

The provisions of the Public Health Acts as to the carriage of infected persons have already been noticed (*r*). They apply to motor omnibuses as well as to motor cabs.

#### (ε) *Fares*

Although the proprietor is required by the London Hackney Carriages Act, 1843, s. 7, to expose a table of fares inside the carriage, and these fares are the only lawful fares, the amount of the fares to be included in the table is not fixed by statute except in the case of tramways and other undertakings governed by special Acts of Parliament which limit the fares to be demanded. Where the fares

(*n*) Sects. 24-36, which see for details.

(*o*) *Ibid.* sects. 37-57.

(*p*) *Ibid.* sects. 57-59, and Sched. (*q*) *Ibid.* sect. 62. (*r*) *Ante*, p. 209.

are so specially fixed increases have generally been allowed, beyond the original maximum, by the Statutory Undertakings (Temporary Increase of Charges) Act, 1918, and the Tramways (Temporary Increase of Charges) Act, 1920.

(s) *Persons beside the Driver*

The Commissioner of Police (s) has forbidden anyone to ride beside the driver except they be learners, fitters or some other person authorised by the proprietor or the Commissioner himself.

(κ) *Deviation from Route*

The Metropolitan Police Act of 1839 deals generally with all traffic, but one provision (t) peculiar to stage carriages was put in which permits stage carriages to deviate from the line of route shown in their licence, if required to do so by police regulations.

The licence formerly given to stage carriages had to specify (under the now repealed sect. 11 of the Stage Carriage Act, 1832) the routes on which such carriages would travel. This section was repealed by 32 & 33 Vict. c. 14, s. 39, but in the substituted licence authorised under 32 & 33 Vict. c. 115, no such specification was required. As the Act of 1869 does not require it, there is some doubt as to whether the Commissioner of Police may bind motor omnibuses to certain fixed routes. In the "Notice to Proprietors" of August 30, 1907, however, the Commissioner of Metropolitan Police requires (u) that applicants for a licence shall state the line or lines which the motor omnibus for which a licence is asked will follow.

(μ) *Drunkenness, Furious Driving and Misconduct*

The provisions of the London Hackney Carriage Act, 1843, with regard to unauthorised drivers and furious driving (x) apply also to drivers and conductors of motor

(s) Notice of August 30, 1909, Art. 60.

(u) Sect. 6.

(t) 2 & 3 Vict. c. 47, s. 53.

(x) Act of 1842, sects. 27, 28.

omnibuses, and sect. 33 of the same Act punishes obstruction by motor omnibuses and penalises drivers and conductors who refuse to admit or carry any passenger for whom there is room and to whose admission no lawful objection can be made, and drivers who stop opposite the end of a street unless delayed by accident or necessity (*y*). The Act of 1853 (No. 1) requires lamps to be placed inside motor omnibuses (*z*), and that they be kept alight between sunset and sunrise. The Metropolitan Streets Act, 1867 (*a*), compels drivers to stop for letting down passengers as near as possible to the left side of the roadway, and forbids them to take up or set down passengers in *the special limits* of the Act at places forbidden by the Commissioner of Police (*b*); but it is noteworthy that even in districts declared by the Commissioner of Police to be "special districts," he has no power to limit the number of motor drivers who ply in a street in the pursuance of their ordinary trade (*c*).

## (B) OUTSIDE THE METROPOLITAN AREA

### (a) LICENSING OF DRIVERS AND CONDUCTORS OF HACKNEY AND STAGE CARRIAGES

#### (1) *Generally*

Motor vehicles used as hackney or stage carriages outside the metropolis are, of course, "light locomotives," and the provisions with regard to licensing of drivers of light locomotives which are made by the Motor Car Act of 1903, and Orders made thereunder, apply to, and must be obeyed by, those who own or drive them. With regard to the licensing of drivers and vehicles which ply for hire in the public streets the general provisions of the law are contained in the Town Police Clauses Act, 1847 (*d*), as

(*y*) See the section for details.

(*z*) 16 & 17 Vict. c. 33, s. 14.

(*a*) 30 & 31 Vict. c. 134, s. 8.

(*b*) *Ibid.* sect. 14.

(*c*) *Ibid.* sect. 11 (2). Such a power may be taken in the City under the City of London (Street Traffic) Act, 1909. See *ante*, p. 171. See also the regulations as to motor omnibuses going to Liverpool Street, the Mansion House or London Bridge, dated February 27, 1891, and July 27, 1895.

(*d*) 10 & 11 Vict. c. 89.

amended by the Town Police Clauses Act, 1889 (*e*). The Town Police Clauses Act was not originally a general Act. It extended only to such towns or districts in England and Ireland as should be comprised in any Act which, passed after 1847, should declare the Clauses Act to be incorporated with itself (*f*). The Public Health Act of 1875, however, altered this state of affairs. It enacted (*g*) that the provisions of the Town Police Clauses Act with regard to hackney carriages should be in force in all urban districts where the Public Health Act is itself in force, that is to say, in all urban districts over the whole of England and Wales, but not, except where specially provided, in the "metropolis" (*h*). The Act of 1847 is therefore for our purpose in force in every urban district in England and Wales, except in the County of London; and the Town Police Clauses Act of 1889 is in force in the same areas (*i*).

By referring to the sixth section of the Public Health Act, 1875, and the twenty-first section of the Local Government Act, 1894, we find what "urban districts" are (*k*).

## (2) *Licensing Authorities*

The licensing authority to which, in places outside the County of London, the applicant for hiring and driving licences must go is, in boroughs (*k*) the mayor, aldermen, and burgesses acting by the council; in Improvement Act Districts the Improvement Commissioners, and in

(*e*) 52 & 53 Vict. c. 14.

(*f*) Act of 1847, sect. 1.

(*g*) 38 & 39 Vict. c. 55, s. 171.

(*h*) In this Act the "metropolis" is defined (by a definition in sect. 4) to be the City of London and all parishes and places mentioned in Scheds. A. and B. of the Metropolis Management Act, 1855. The said city and parishes and places are by sects. 40 and 100 of the Local Government Act, 1888 (51 & 52 Vict. c. 41), made and christened "the Administrative County of London." Woolwich is one of the parishes mentioned in Sched. A. of the Act of 1855, but by a scheme under the London Government Act, 1899, dated August 7, 1900, these provisions so far as Woolwich was concerned were repealed.

(*i*) See sect. 2 of that Act (52 & 53 Vict. c. 14).

(*k*) The reader who desires to pursue these definitions to their source is referred to sect. 6 of the Public Health Act, 1875, and the notes thereto in Lumley's Public Health (ed. of 1908), vol. i. p. 38.

Local Government Districts the Local Board (*l*). Since 1894 the last two authorities have been called Urban District Councils. These bodies have power to give licences both to carriages and to drivers and conductors (*m*). Looking first at the provisions with regard to licensing of drivers and conductors of carriages, we find they are very similar to those which are in force in the Metropolitan Police District (*n*). No person may act as driver or conductor without receiving a licence to do so. The Act does not say that drivers who wish to apply for licences must attend in person at the offices of the urban authority, but it has been held that they may be required to do so (*Banton v. Davies* (1891), 17 Cox C. C. 469; 56 J. P. 294; 65 L. T. (N. S.) 192).

### (3) *Discretion of Authority*

The authorities have the right to refuse to give licences but they must exercise the discretion which the law gives them evenly and properly. Thus, they may properly decline to license omnibuses when another company is already operating a service and competition would be dangerous in the narrow streets of a town (*R. v. Brighton Corporation* (1916), 80 J. P. 219). But they may not refuse to entertain all applications except those of favoured proprietors with whom they have either a written agreement or a tacit understanding (*R. v. Barry Urban Council* (1900), 16 T. L. R. 565).

Nor can they by means of their jurisdiction as a licensing authority seek to control other matters outside their jurisdiction, *e.g.* seek to control the fares to be charged by omnibus proprietors (*R. v. Farnborough Urban Council*, [1920] 1 K. B. 234. See also *R. v. Lisnaskea Union*, [1918] 2 Ir. R. 258, and *R. v. Blackpool Corporation*, Times newspaper, Dec. 7, 1899).

(*l*) See note (*k*), p. 219.

(*m*) By a provision in sect. 4 (2) of the Town Police Clauses Act, 1889, the word "driver" in the licensing sections of the Act of 1847 is made to include a conductor.

(*n*) See the Act of 1847, sects. 46-50.

### (4) Issuance and Revocation of Licence

The licence once given to the driver remains in force until revoked or suspended (a). But a licence to drive or conduct may be issued or lost for a short period and for less than one year (b). The Act which replaces the licence does not give to local magistrates the powers of revocation which have been given by the London Hackney Carriage Act of 1843 to magistrates in the Metropolitan Police District. The whole authority themselves may, under certain conditions, suspend or revoke the licence to any driver or conductor, but this jurisdiction does not arise unless the driver or conductor has been twice convicted of an offence against the provisions of the Town Police Clauses Act with regard to hackney carriages, or against a bye-law made under the authority given by the Act (c).

### (5) List of Licences

A list of licences given to drivers must be kept by the clerk to the authority, and he must enter in it any offences of which the holders of driving licences are convicted (d). This list is open to public inspection free of charge (e).

The fee to be charged for licences to drive or conduct motor cabs or omnibuses is 1s. 6s. (f).

### (6) Driving without a Licence

Any person who acts as a driver without a licence, or while he is under an order of suspension, or parts with his licence to another except by the provisions of a hackney carriage bye-law, is liable to a penalty (g).

(a) Act of 1847, sect. 46.

(b) Under the Town Police Clauses Act, 1846 (20 & 21 Vict. c. 12), sect. 9.

(c) Act of 1847, sect. 50. We submit therefore that the licence would not be revocable merely by a resolution of the Council of the Corporation of the Mayor, or of any order made thereunder.

(d) Sect. 42 of the Act of 1847 is loosely worded. It is submitted, however, that any offence against this part of the Act may be or should be treated as a public offence.

(e) Sect. 42, sub. (2).

(f) Sect. 42, sub. (3).

(7) *Owner to Hold Licence*

The proprietor or employer who employs a licensed driver is required by law to take the driver's licence from him and keep it safely.

When a licensed driver or conductor leaves the service of an employer, the employer if he has no complaint against him must return his licence.

(8) *Production of Driver by Owner*

If the proprietor is, in any case of complaint, summoned to attend before a justice or to produce the driver, he (the proprietor) must also (*u*) produce the licence of the driver if the driver is still in his employment.

(9) *Endorsement of Licence*

If the driver is found guilty of the offence charged against him the magistrate is bound to endorse his licence stating the nature of the offence of which the driver has been convicted and the amount of the penalty which has been imposed.

(10) *Owner not to Write on Licence*

The Acts of 1847 and 1889 make no provision like that of the Metropolitan Carriage Act of 1843 for the employer's writing anything on the driver's licence, either in the nature of a discharge, record of employment, or otherwise (*x*). The proprietor therefore should carefully abstain from writing anything whatever, anywhere on the driver's licence.

(11) “ *Matter of Complaint* ”

If an owner has any complaint to make of the driver's (or conductor's) conduct he must retain the driver's licence and give the driver notice of the complaint, and *forthwith* (*y*)

{*u*} Penalty of 40s. *Ibid.* sect. 48.

{*x*} Some cases on marking or defacing licences are referred to above (p. 180). They are all metropolitan cases; but it is submitted that the principle on which they are decided applies outside the metropolis.

{*y*} Act of 1847, sect. 49.

summon the driver to appear before any justice to answer the complaint. Any justice before whom the driver is so summoned must enquire into and settle the dispute, and if he thinks, after enquiry, that the licence of the driver has been improperly withheld, he is bound to order the proprietor to give up the licence immediately to the driver. The magistrate may also order the proprietor to pay compensation to the driver (z).

## (b) LICENSING OF PUBLIC CARRIAGES

### (1) *Generally*

The licensing of motor cabs and motor omnibuses outside the metropolis is governed by the Town Police Clauses Acts, 1847 and 1889. The earlier Act made elaborate provisions for licensing hackney carriages, and these were extended *in toto* to omnibuses by the fourth section (a) of the Act of 1889; so that, outside the metropolis, an omnibus, if it falls within the definition of that term which is laid down by the Act of 1889, is on the same footing and under the same law as regards licensing as a motor cab (*Birmingham Motor Omnibus Co. v. Thompson*, [1918] 2 K. B. 105).

This definition is very wide. "Omnibus," we read (b), "shall include every omnibus, char-a-banc, waggonette, brake, stage-coach, and other carriage plying (c) or standing for hire by, or used to carry, passengers at separate fares to or from any part of " the area of the urban authority. But the word does not include any carriage starting from a livery stable yard in the urban area whereat horses are stabled and carriages let for hire and previously hired for the particular passengers thereby carried if such carriage starts from the said stable yard and is *bonâ fide* the property

(z) Act of 1847, sect. 49.

(a) 52 & 53 Vict. c. 14, s. 4. Till 1869 stage carriages required an excise licence, but this was abolished by the Inland Revenue Act, 1869 (32 & 33 Vict. c. 14), sect. 39.

(b) Act of 1889, sect. 3; see also Roads Act, 1920, s. 14 (3).

(c) As to what is "plying for hire," see *ante*, p. 193.

of the occupier of the stable yard and does not stand or ply for hire in the urban area. Nor does it include an omnibus belonging to or hired or used by any railway company for conveying passengers and luggage to or from their stations if such carriage does not stand or ply for hire. Nor does it include an omnibus starting from outside the area of the urban authority and bringing passengers into it unless such omnibus stands or plies for hire within the area of the authority. Nor does it include any tramcar or tram carriage duly licensed under the provisions of the Tramways Act, 1870, or of any Provisional Order made thereunder and confirmed by Parliament or under the provision of any local Act of Parliament, but this last exception is because these vehicles are otherwise provided for, and the effect of the exclusion is not to take these vehicles out of the class of hackney carriages requiring to be licensed (*Blackpool Tramroad Co. v. Bailey*, [1920] 1 K. B. 380).

“Other carriage” in this definition does not extend the definition so as to include a carriage worked by electricity upon a light railway (*Yorkshire Electric Tramways v. Ellis*, [1905] 1 K. B. 396).

A licence is needed for all omnibuses and carriages which ply for hire within “the prescribed distance,” that is to say, within the area of the urban district (*d*), and if a carriage plies for hire in more than one urban area, it must apparently be licensed in each and all of those in which it plies (*e*).

“Hackney carriages” are defined by sect. 38 of the Act of 1847. “Every wheeled carriage, whatever be its form or construction used in standing, or plying for hire” in the urban area, “and every such carriage standing

(*d*) Act of 1847, s. 37; Public Health Act, ss. 171 and 176.

(*e*) An omnibus which comes with passengers from area A into area B, and waits fifteen minutes in B to take up goods and passengers for the return journey to A, is plying in B, and must be licensed there (*Dechurst v. Eddles* (1893), 57 J. P. 373; 9 T. L. R. 494). An omnibus going from A to B, and advertising to take passengers and goods from A, must be licensed in A, even though no fares are charged till it has left the A area (*R. v. Fletcher, Ex parte Ansonia* (1908), 21 Cox C. C. 579; 72 J. P. 249).

upon any street" within the area, "having thereon any numbered plate required by this . . . Act to be fixed upon a hackney carriage, or having thereon any plate resembling or intended to resemble any such plate as aforesaid," are deemed to be hackney carriages, provided that no stage coach duly licensed as such shall be deemed to fall within the definition.

### (2) *Discretion of Authority*

In considering applications for licences, the local authority has a discretion to grant or refuse the licence upon proper grounds (*R. v. Brighton Corporation* (1916), 80 J. P. 219). But this discretion must be exercised judicially, and cannot be used in effect to extend the jurisdiction of the authority to matters beyond their control (*R. v. Barry Urban Council* (1900), 16 T. L. R. 565; *R. v. Farnborough Urban Council*, [1920] 1 K. B. 234; and see *ante*, p. 220). In the case of a refusal or conditional grant of a licence for an "omnibus" there is an appeal to the Minister of Transport under Roads Act, 1920, s. 14 (3) (see *ante*, p. 196).

There does not appear to be any authority, similar to *Banton v. Davies* (1891), 56 J. P. 294 (see *ante*, p. 220), which gives the authority the right to insist upon the applicant for a carriage licence appearing personally, and the case of such an applicant appears to stand upon a different footing from that where the applicant is seeking a personal licence as a driver or conductor.

### (3) *Application for Licence*

The proprietor or one of the proprietors of the vehicle for which a licence is desired must ask for a licence by means of a requisition signed by him and made in the form provided by the urban authority (*f*). The form of requisition must contain the name and abode of the person applying for the licence and of every proprietor or part

(*f*) Act of 1847, sect. 40.

proprietor of the vehicle, and of every person concerned, either solely or in partnership with others, in keeping, employing or letting it to hire. Penalties are imposed if the applicant gives the name or address of any person who is not a proprietor, or does not give the names of all the proprietors or part proprietors and of all concerned in keeping, employing or letting out of the vehicle (*g*).

#### (4) *Form of Licence*

No form of licence is prescribed, but the licence must specify the name and abode of the proprietors, or partners, and must also contain a number to correspond with the number to be painted or marked on the plates fixed on the carriage, and any other particulars which the licensing authority thinks fit (*h*).

Licences must be under the common seal of the licensing authority.

#### (5) *Duration of Licence*

Each licence must be for one vehicle only, and remains in force for a year only, or until the next general licensing meeting if the urban authority appoint a day for such a meeting (*i*).

#### (6) *Register of Licences*

By sect. 42 of the Act of 1847 the clerk to the authority is required to enter every licence in a register, which must contain columns for entering every offence committed by any proprietor or driver or person attending a public carriage.

The wording of this section is far from precise, and the duty of the clerk to enter offences in the spaces so provided is inferential merely. Presumably the intention is that every offence against the Act shall be recorded, but, as the section is drafted, it would be a matter of argument

(*g*) Act of 1847, sect. 40.

(*h*) *Ibid.* sect. 41.

(*i*) *Ibid.* sect. 43. In such case they must be renewed at such meeting.

whether the clerk were bound to record an offence, and whether he were bound or entitled to record only offences under this Act or also offences of other, and if so of what other, kinds.

This register is open for public inspection free of charge.

#### (7) *Offences as to Licences*

If any proprietor allows his cab or omnibus to stand or ply for hire without a licence, or without having a number corresponding to the number on the carriage licence openly displayed on it, he may be fined 40s. or less (*k*). If any person named on the licence as a proprietor or part proprietor changes his abode, he must inform the licensing authority of the change within seven days, and in his notice of change must specify his new place of abode. At the same time he must produce his licence to the urban authority, and their clerk, or some other officer, must endorse a memorandum of the change on the licence, and sign the endorsement. A breach of this rule by a proprietor involves a penalty (*l*).

#### (8) *Suspension and Revocation of Licences*

By sect. 50 of the Act of 1847 the issuing authority may suspend or revoke the licences issued by them if the proprietor is twice convicted of any offence against the Act or any other Act dealing specially with hackney carriages. As to this section, see *ante*, p. 221.

### (C) REGULATION OF PUBLIC VEHICLES

#### (1) HACKNEY CARRIAGES

##### (a) *Sources of Regulation*

The law as to the regulation of motor hackney carriages outside London is not very voluminous. Bye-laws may be made for the regulation of hackney carriages under sect. 68 of the Town Police Clauses Act, 1847, and the

(*k*) Act of 1847, sect. 45. Under sect. 68 the authority may make bye-laws as to how the number is to be shown on the carriage.

(*l*) 40s. or less, *ibid.* sect. 44.

Local Government Board issued model bye-laws (*m*) which local authorities may adopt or go upon if they please. Only the general provisions of the Town Police Clauses Act with regard to regulation are noticed here, inasmuch as they alone apply generally to the regulation of all extra-metropolitan hackney carriages (*n*).

(*β*) *Plying with Unlicensed or Unmarked Vehicle*

A penalty of 40s. or less may be imposed on any person who allows an unlicensed carriage to be used for standing or plying for hire, or if it has not its number openly displayed upon it (*o*).

(*γ*) *Refusal to carry Authorised Number of Persons*

The same penalty is imposed both on the owner and on the driver of a motor cab if he permit to be used, or stand or ply with, any motor cab, unless the number of persons to be carried by it is clearly painted on it at length (*p*); and the same penalty can also be imposed on any driver who refuses to carry the number of persons stated in his licence or any less number (*q*).

(*δ*) *Refusal to drive to Destination desired*

Drivers must not refuse to drive to any place in the district (*r*) or to any other place named in the local authority's bye-laws.

(*m*) They date from 1877.

(*n*) That is to say, private Acts of Parliament are not reviewed.

(*o*) Act of 1847, sect. 45. It has been held that it is not an offence against this section to stand for hire on a piece of land adjoining a railway station, and belonging to the railway company which owned the station. The land being private land was held not to be a street, and the judges in effect held that it was not an offence against this section to stand for hire in a place which is not a street (*Jones v. Short* (1900), 82 T. L. N. S. 197). It may be noted that the section does not make it punishable to stand or ply in a street, but to stand or ply "within the prescribed distance," i.e. *anywhere* within the area of the licensing authority. The justices seem to have thought that it was no offence to ply elsewhere than in a street, and the Judges of the Divisional Court did not disagree with them. See *ante*, p. 193.

(*p*) See, for details, sects. 51 and 52 of the Act of 1847. It is noteworthy that the number of persons to be carried need not be stated either in the requisition for a licence or the licence itself. See sects. 40 and 41 of the Act.

(*q*) *Ibid.* sect. 52.

(*r*) Whether public or not, if (as in the case of a railway station) he can get admission to it (*Ex parte Kippins*, [1897] 1 Q. B. 1).

(ε) *Excessive Fares*

A proprietor or driver may be fined 40s. or less if he be convicted for taking as a fare a sum greater than is allowed by the bye-laws of the district in which the motor cab is licensed; and may be ordered to repay the sum overcharged in addition to the penalty (s).

An agreement to pay more than the legal fare is unenforceable, and if a driver who has agreed to take less than the legal fare demands more than he has agreed for, he is liable to a penalty (t). The Act also forbids drivers to make agreements to carry the number of passengers which the cab is licensed to carry (or fewer) for a distance to be in the discretion of the driver for an agreed sum, unless the distance driven be equal to or greater than that which the passengers could have travelled for the agreed sum at the rate allowed by the Act of 1847, or the special Act in force in the particular urban area, or any bye-law made in pursuance thereof (u).

If a passenger refuse to pay his legal fare, it may be recovered with costs before one justice, as a penalty (x). There is not, however, any provision in force outside London similar to the London Cab Act of 1896 for protecting cabmen against persons who fraudulently seek to avoid paying the legal fare.

(θ) *Waiting Charges*

Drivers who take a passenger to a place and are asked to wait, may demand to be paid as a deposit their outgoing fare and a sum for waiting of eighteen pence for every half-hour's wait; but this sum is a deposit, and the driver, if he receives it, must await the convenience of the passenger and account for the deposit when he is finally discharged (y).

(s) Act of 1847, sect. 58. The penalty and costs, and also the overcharge, may be recovered before any Justice of the Peace.

(t) Act of 1847, sects. 54 and 55.

(u) *Ibid.* sect. 56.

(x) *Ibid.* sect. 66. But though stated to be recoverable as a penalty, it is only recoverable as a civil debt (*R. v. Kerswill*, [1895] 1 Q. B. 1).

(y) Act of 1847, sect. 57.

*(s) Allowing Unauthorised Persons to ride or drive*

Drivers may not, whilst hired, allow any person to ride on the cab without the passenger's consent, and must not allow any other person to drive a carriage belonging to a proprietor for whom they drive without the proprietor's consent (z).

*(κ) Drunkenness and Dangerous Driving*

Drivers are liable to penalties if they are intoxicated whilst driving, or drive furiously, or endanger any person in his life, limbs, or property (a).

*(λ) Leaving Carriage unattended*

Drivers may not leave their cabs, whether hired or not, in any street or at any place of public resort without a competent person to take care of them ; and if a cab be left contrary to this provision any constable may take it away to safe custody, and the cab may be sold to meet any expenses incurred by the seizure, the balance of the proceeds, after deducting proper expenses, being returned to the proprietor (b). As in London, so without it, a justice may order the owner of a cab to make good any damage which the driver has caused to any person up to £5, and the compensation so ordered is recoverable by the injured person from the owner, and by the owner from the driver (c).

*(μ) Obstruction*

Drivers are forbidden to stand across any street or beside one another, and no driver may obstruct another either in setting down passengers or with a view to preventing

(z) For details and penalties see *ibid.* sects. 59 and 60. Whether licensed or not, no person may drive a carriage of this kind without the proprietor's consent (*ibid.* sect. 60).

(a) *Ibid.* sect. 61, and see Licensing Act, 1872, sect. 12, and Offences against the Person Act, 1861, sect. 35.

(b) *Ibid.* sect. 62. It also provides a penalty.

(c) *Ibid.* sect. 63. If a person takes compensation under this section he cannot afterwards bring an action for the same injury (*Wright v. L. G. O. Co.* (1877), 2 Q. B. D. 271). As to the relation between proprietor and driver, see *ante*, p. 184.

his being hired ; and drivers must, where they can, give way to other carriages (*d*).

*(v) Carriage of Infected Persons*

The provisions of the Public Health Act, 1875, with regard to the carriage of persons suffering from infectious disorder have been already mentioned, as they are in force in part of the metropolitan area. They must also, of course, be observed by motor-cab drivers and owners outside the metropolitan area. Under sect. 126 of this Act, if a person is suffering from a dangerous infectious disorder, he must not wilfully expose himself in a public conveyance "without proper precautions against spreading the said disorder," or enter a public conveyance without previously informing the owner, driver, or conductor that he is so suffering. A person in charge of anyone so suffering is also forbidden so to expose him. An infected person of this kind who enters a public conveyance without giving notice to the owner or driver may be further ordered by the Court which imposes the fine to pay to the owner or driver the loss which he incurs in carrying out the provisions of the Act with regard to disinfection. By sect. 127 of the Act every owner or driver of a public conveyance must at once provide for the disinfection of his carriage after it has to his knowledge contained a person dangerously infected ; and he is not compelled to convey any such person until he has been paid the costs of disinfecting.

*(o) Regulation by Bye-laws*

The sixty-eighth section of the Act empowers all urban councils to make bye-laws for the regulation of hackney carriages. These may provide for all or any of the following matters within the area of the licensing authority—

- (1) Conduct of proprietors and drivers, wearing of badges, and hours within which cabs may ply ;
- (2) Display of licence number on each carriage :

*(d)* As to details and penalties, see Act of 1847, sect. 64.

- (3) Number of persons to be carried, and furniture of carriages ;
- (4) Stands, and distance within the district which drivers must go if desired ;
- (5) Fares ;
- (6) Return and safe keeping of property left in carriages (e).

Bye-laws for regulating hackney carriages are made in the manner prescribed by sects. 182–186 of the Public Health Act, 1875 (f), for the making of all bye-laws made in the execution of that Act or the Acts incorporated with it. They must be under the common seal of the licensing authority, and may be altered or repealed, and must be confirmed by the Local Government Board (g), but they are invalid if repugnant to the laws of England or the provisions of the Act, or if they are unreasonable.

A great deal of litigation has at different times taken place as to the validity of bye-laws and as to whether particular bye-laws were reasonable or unreasonable. We do not intend, however, in this work to attempt to deal with this topic (h). But it may be observed generally that the Courts are always reluctant to hold that a bye-law made by an elected authority and confirmed by the Local Government Board is unreasonable (i), but will do so if the bye-law in question does not regulate the matter with which it purports to deal, but leaves the authority free to deal with each case as it arises in any way they please (k), or if it imposes a charge (e.g. on licensees) which the authority is not empowered to impose, or if it restricts a benefit (e.g. the issue of licences) to a favoured class of persons (e.g. to those resident in a certain area) (l). Unless

(e) Act of 1847, sect. 68, *post*, which see for details.

(f) 38 & 39 Vict. c. 55.

(g) *Ibid.* sect. 184.

(h) The principal cases are fully considered in Glen's Public Health (1906), I., pp. 678–681. See also *Commissioners of Public Works in Ireland v. Monaghan and another*, [1909] 2 Ir. R. 718.

(i) See *Kruse v. Johnson*, [1898] 2 Q. B. 91.

(k) As in the case of *Parker v. Bournemouth Corporation* (1902), 86 L. T. N. S. 449.

(l) *Moorman v. Tordoff* (1908), 98 L. T. N. S. 416.

bye-laws are in some such manner as this plainly, and one may say flagrantly, unreasonable, the court is apt to support them.

Thus bye-laws have been held valid which forbade plying for hire in any street or place at B. except at one of the stands fixed by the licensing authority, though the bye-law did not mention any stand (*m*), and which required the dial of a taximeter to be illuminated (*n*); and bye-laws which forbade a hackney carriage "to stand longer than is necessary for taking up or setting down passengers on any part of the streets other than a stand except at the dismissal of theatres, assemblies, public meetings and the like," have also been supported by the Scottish Courts (*o*).

The licensing authority has power to impose penalties not exceeding £5 on offenders against bye-laws, and of 40s. a day in case of an offence continuing after the authority have given written notice to the offender that he is committing an offence; but when bye-laws are made under the Public Health Act of 1875 no greater penalty than £5 may be recovered, even though the Act incorporated with the Public Health Act, and through which the power to make the bye-law is derived, may have authorised the imposition of heavier fines (*p*).

All ratepayers, on applying to the local authority, are entitled to have copies of the bye-laws free of charge; and the bye-laws made by a local authority must be printed and hung up in their office (*q*).

### (π) *Recovery of Penalties*

All penalties incurred by the breach of the hackney carriage sections of the Town Police Clauses Act may be recovered summarily by virtue of sect. 251 of the Public Health Act, 1875, or the particular provisions of the Town Police Clauses Act itself; and sect. 2 of the Town Police

(*m*) *Blackpool L. B. v. Bennett* (1859), 4 H. & N. 127.

(*n*) *Dunning v. Maher* (1912), 106 L. T. 846.

(*o*) *Mackenzie v. Somerville* (1900), 3 F. (Just. Cases) 4.

(*p*) Public Health Act, 1875, sect. 183.

(*q*) *Ibid.* sect. 185.

Clauses Act, 1889, enables summary proceedings to be taken in the case of offences under that Act, since it directs that the Acts of 1847 and 1889 are to be read as one.

For the protection of drivers it is provided that if they are summoned for any offence against the Town Police (Clauses Act, or the special Act, or a bye-law, and the magistrate dismisses the summons or acquits them, or the summons is not proceeded with, an order for their compensation by the complainant or informant may be made (sect. 65 of Act of 1847).

## (2) STAGE CARRIAGES

### (a) *Sources of Regulation*

The Town Police Clauses Act of 1847 did not apply to omnibuses. A proviso in that Act deliberately excluded from the class of "hackney carriage" regulated by the Act all carriages which were licensed to ply for passengers at separate fares (*r*). These carriages were, in 1847, and still are, under the provisions of the Stage Carriage Act, 1832 (*s*), as amended by the Stage Carriage, etc., Act, 1833 (*t*), and the Railway and Stage Carriage Passengers' Duty Act, 1842 (*u*). The portions of that Act which are still extant and which deal with regulation have already been enumerated (*ante*, p. 211, *et seq.*) when we were dealing with motor omnibuses in the metropolis. The Act is a general one and is in force alike within and without the metropolis. We need not here repeat any references to those provisions, but it should be borne in mind by those concerned that motor omnibuses must still conform to the extant and relevant provisions of these three Acts.

The only other Act of general operation with regard to the registration and regulation of motor omnibuses is

(*r*) See the proviso to sect. 38 of the Town Police Clauses Act, 1847, and *Cousins v. Stockbridge* (1866), 30 J. P. 166. The licence mentioned in that proviso was an excise licence, which was abolished by sect. 17 of the Customs and Inland Revenue Act, 1869 (32 & 33 Vict. c. 14).

(*s*) 2 & 3 Will. 4, c. 120.

(*t*) 3 & 4 Will. 4, c. 48.

(*u*) 5 & 6 Vict. c. 79.

the later Town Police Clauses Act of 1889. By this Act (*x*) the provisions of sects. 37, 40-52 (both inclusive), 54, 58 and 60-67 (both inclusive) of the Town Police Clauses Act, 1847, were made to apply to omnibuses, and the provisions as to drivers of hackney carriages were directed to be applicable to conductors of omnibuses.

### (*β*) *Regulation by Bye-laws*

The bye-law section (*y*) of that Act gives to the licensing authority somewhat larger powers for regulation than those given by sect. 66 of the Act of 1847. The Act of 1889 does not give any power to regulate the hours within which omnibuses may ply, but empowers the authority to make regulations as to carrying proper lamps to show the public which way the omnibus is going, and as to the conspicuous posting up of statements as to fares, and for prevention of shouting or "touting" for fares and blowing on horns (*a*).

### (*γ*) *Registration of Licences*

Inasmuch as the Act of 1847 required hackney carriage licences to be registered, the licences given to omnibuses must, under the Acts of 1847 and 1889, be registered also: but there is no provision enabling a licensing authority to charge for the registration or compelling the owner of a motor omnibus to see that its licence has been registered. This registration is, of course, quite apart from that which is provided for the motor omnibus, *qua* motor car.

### (*ς*) *Carriage of Infected Persons*

Owners and drivers or conductors of omnibuses have the same rights and duties as to carriage of infectious

(*x*) 52 & 53 Vict. c. 14, sect. 4. "Omnibus" is defined by sect. 3 of the Act; see *ante*, p. 223.

(*y*) Sect. 6.

(*a*) See the Act of 1889, sect. 6, for details.

persons and disinfection as cabs have in that part of the metropolitan area which lies outside the County of London (*b*).

( $\mu$ ) *Fares*

The Act does not authorise the regulation of fares for omnibuses by a bye-law, but, if the owners of the omnibus have settled their fares, regulations may be made under the Act of 1889 for posting these up in omnibuses. Furthermore, the provisions of the Act of 1847 (*c*), as to recovery of the fares and preventing over-charges, are applied by special enactment to omnibus fares when fixed (*d*). Thus it may be said that, though the Legislature has not fixed omnibus fares, or permitted the local authority to fix them, it has provided that when fares have been fixed by the discretion of the owners they shall be treated as if they *had* been fixed by law or bye-law.

(*b*) Public Health Act, 1875, sects. 126, 127, *ante*, p. 231.

(*c*) Sects. 54, 58 and 66.

(*d*) For details as to what bye-laws may settle, see the Act of 1889, sect. 6.

## CHAPTER X

### INTERNATIONAL LAW

(A) INTERNATIONAL TRAVEL-  
LING PASSES.

(B) TEMPORARY IMPORT AND  
USE OF FOREIGN CARS

- (1) Duties.
- (2) Permit.
- (3) Index-Marks and Registra-  
tion Numbers.

(4) Registration Card.

(5) Licences to Drive.

(6) Ordinary Licence after  
Permit expires.

(C) TEMPORARY USE OF BRITISH  
CARS ABROAD.

WE conclude this book with a short summary of the English law governing the temporary importation of foreign motor cars into Great Britain and their use there, and of the formalities to be complied with by the British motorist who wishes to tour with his car abroad.

These matters are dealt with by the Motor Car (International Circulation) Act, 1909, as amended by the Roads Act, 1920, s. 7 (8), whereby the references in the Act of 1909 to the Motor Car Act, 1903, are to be construed as including references to the Act of 1920.

The effect of the Act of 1909 is to empower His Majesty by Order in Council to give effect to any convention for facilitating the international circulation of motor cars, by providing for the grant and authentication of travelling passes, certificates or authorities required by residents in Great Britain, temporarily taking their cars abroad, or by drivers proceeding abroad to drive, and by providing for modifications of the English law, with regard to the registration of cars and the licensing of drivers, in the case of foreign residents temporarily importing cars and of drivers entering the United Kingdom to drive such cars.

Such a convention was concluded at Paris on October 11, 1909, and these powers were first exercised by the issue of the Motor Car (International Circulation) Order, 1910, which was varied by the Motor Car (International Circulation) (Amendment) Order, 1921.

The parties to this convention were Germany, Belgium, France, Italy, Monaco, Roumania and Servia, and Great Britain, Austria and Hungary, Bulgaria, Spain, Greece, Montenegro, the Netherlands, Portugal and Russia subsequently acceded to it. Portions of the convention are set out in the First Schedule to the Order of 1910.

The broad effect of the variation of the Order of 1910 by the Order of 1921 is that the Order of 1910 continues to govern the case of British cars going abroad, but that the case of foreign cars temporarily imported into Great Britain is governed by the Order of 1921, which repeals all the provisions of the former Order relating to that aspect of the matter.

#### **(A) INTERNATIONAL TRAVELLING PASSES**

The basis of the arrangements contemplated by the Convention is the issue, to the owners and drivers of motor cars which it is desired to use abroad, of international travelling passes, and the Convention provides for an examination of the car and of the qualifications of the driver before such a pass is issued (Order 1910, Schedule I, Art. 3).

#### **EXAMINATION OF THE CAR**

The examination of the car can be conducted by the Government of the country which is to issue the pass or by an association authorised by it for the purpose, and either the car itself or its type must be duly approved (Order 1910, Schedule I, Art. 1).

The examination is required to be directed to the efficiency of the machinery and to seeing that the design of it is such as to prevent, as far as possible, all danger of fire or explosion and such as not to frighten animals by noise or to endanger traffic or seriously to inconvenience users of the road by emitting smoke or vapour. It is also required that the car shall have efficient steering apparatus, two independent and adequate brakes and mechanism

capable of preventing it from running backwards even on steep gradients, and, if the car exceeds 350 kilogrammes in weight unladen, it must have a reversing gear. And the arrangement of the car must be such that the driver can manipulate it with certainty without losing his clear view of the road (Order 1910, Schedule I, Art. 1).

In the case of motor tricycles and motor bicycles the requirements are the same, except that neither the reversing gear nor the apparatus to prevent running backwards is required (Order 1910, Schedule I, Art. 6).

#### EXAMINATION OF DRIVER'S QUALIFICATIONS

No authorisation may be given to a driver to drive in a foreign country unless he is at least eighteen years of age and unless he has on examination shown himself to possess qualifications sufficient to guarantee public safety (Order of 1910, Schedule I, Art. 2).

#### (B) TEMPORARY IMPORT AND USE OF FOREIGN CARS

By the Order of 1921, s. 2, any person in charge of a foreign motor car which it is desired to use temporarily in the United Kingdom may, on production of his international travelling pass, apply for the issue, to the person or persons whose names appear on the pass as the driver or drivers of the car, of a licence or licences to drive it in the manner prescribed by the Minister of Transport by Regulations.

These regulations are the Road Vehicles (International Circulation Permit) Regulations, 1921 (see *post*, p. 382). They deal with the questions of duties, licensing and registration.

##### (1) DUTIES

The holder of an International Circulation Permit, issued under these Regulations, so long as the Regulations are complied with, is exempt during the validity of the permit from duty payable under Finance Act, 1920, s. 13 (Regulation 3).

## (2) PERMIT

The permit must be applied for to the registration authority in the Form "A" set out in the 1st Schedule to the Regulations, and if the applicant holds an international travelling pass, the pass must be forwarded with the application (Regulation 4).

The registration Authority for this purpose is the Royal Automobile Club, the Automobile Association and Motor Union, or the London County Council (Regulation 2). These authorities may act by any officer duly authorised by them (Regulation 17).

The permit must be in the form "B" set out in the 2nd Schedule to the Regulations, and must be carried on the vehicle like a licence (Regulation 5).

To deface or mutilate a permit, or to alter or obliterate any entry therein, or to add thereto, or to make or exhibit any colourable imitation thereof, is forbidden (Regulation 7 (1)).

If the permit is lost, destroyed or accidentally defaced, a duplicate can be obtained for a fee of 5s. (Regulation 7 (11)).

On receipt of the application, the registration authority, on being satisfied that the person keeping and desiring to use the vehicle is making only a temporary stay in the United Kingdom and that the vehicle was brought into the United Kingdom by him, shall issue a permit on which is entered the index-mark and registration number of the vehicle, the date to which the permit is valid and the name of the authority and the date of the issue of the permit (Regulations 8 (1) and (11)).

The authority must retain the application and advise the Commissioner of Metropolitan Police of the issue of the permit (Regulation 8 (v)). It must also keep a register of vehicles in respect of which permits have been issued (Regulation 11).

The permit shall in general be valid for a period of four months from the date of the importation of the vehicle unless previously surrendered, but if the applicant has, within a year immediately preceding the application, held

another permit, this period of four months shall be reduced by the number of days for which such other permit was in force (Regulation 12).

If the vehicles in respect of which a permit has been issued is broken up or destroyed or sold or transferred in ownership while the permit is valid, then the holder of the permit must forthwith notify the registration authority accordingly and surrender the permit, of which surrender the authority must inform the Commissioner of Metropolitan Police (Regulation 13).

When the vehicle in respect of which a permit has been issued is about to be removed from the United Kingdom during the validity of the permit, the permit must before such removal be surrendered to the registration authority, who must advise the Commissioner of Metropolitan Police of the fact (Regulation 14).

### (3) INDEX-MARKS AND REGISTRATION NUMBERS

The index-mark and registration number of the vehicle shall be the registration number allotted to it by the country issuing an international travelling pass, where the person bringing the vehicle into the United Kingdom holds such a pass issued in respect of the vehicle, and in all other cases the letters QQ and a number assigned to the vehicle by the registration authority issuing the permit (Regulation 9).

When a vehicle in respect of which a permit has been issued is broken up or destroyed or removed from the United Kingdom, or sold or transferred to someone else in the United Kingdom, the index-mark and registration number shall become void and shall not be assigned to any vehicle to be used in the United Kingdom, provided that if the holder of such permit again apply for a permit in respect of the same vehicle within three years of the issue of such permit the same index-mark and registration number may be assigned again to the vehicle, and provided that this regulation shall not invalidate an index-mark and registration number for the purpose of an international

travelling pass issued in the United Kingdom for travelling in other countries.

The identification mark must be carried by the vehicle in respect of which a permit has been issued, and exhibited in the same way as an identification mark issued under Roads Act, 1920 (see *ante*, p. 39).

It must be noted that by Art. 1 of the Convention of 1909 (see Schedule 1 of the Order, 1910) every car must be provided with plates, showing the manufacturer, the manufacturer's number, the horse-power of the engine or the number and bore of its cylinders and the unladen weight of the car, and by Art. 4 of the Convention the vehicle must carry the number plate of its own nationality and a distinctive plate displaying the letters (as specified in Annexe C of the Convention) indicating its nationality. The sizes of these plates and of their lettering are specified in Annexe C and Art. 6 (3) of the Convention (see Schedule 1 of the Order of 1910).

#### (4) REGISTRATION CARD

A registration card must be issued by the registration authority to the person keeping and using any vehicle in respect of which a permit has been issued (Regulation 6).

This card must contain such particulars as to the vehicle as the Minister of Transport may from time to time direct (*ibid.*).

The card must be produced for the inspection of a police officer or a local taxation officer upon demand (*ibid.*).

The card must be affixed by the registration authority to the international travelling pass, if one is held by the person to whom the card is issued (Regulation 8 (iii)).

The same regulations apply to the loss, defacement, mutilation, alteration, imitation, destruction and surrender of the registration card as are applicable in the case of a permit (as to which see *ante*, p. 240).

#### (5) LICENCES TO DRIVE

If the person keeping and using a vehicle in respect of which a permit has been issued is the holder of a valid

international travelling pass, issued in respect of the vehicle, the registration authority must, with the permit, issue driving licences to the persons named in the pass as drivers, in the form "C" set out in the Third Schedule to the Regulations (Regulation 8 (iv)).

The authority must advise the Commissioner of Metropolitan Police when such licences are issued by them (Regulation 8 (v)).

#### (6) ORDINARY LICENCE AFTER PERMIT EXPIRES

Any person who has held a permit must, before using the vehicle to which the permit related in the United Kingdom, after the permit has expired, apply for and obtain an ordinary licence for it.

If he has no principal place of business or permanent postal address in the United Kingdom, the application for this licence should be made to the council of the county or county borough where he is temporarily residing, and the permit and registration card must be sent with the declaration.

The applicant must pay the full amount of duty in respect of the period covered by the permit as well as the amount payable in respect of the licence applied for, unless this would entail his paying more duty than he would have paid if he had obtained a licence when the vehicle was last brought into the United Kingdom and renewed it from time to time so that it would expire at the date when the licence applied for will expire.

The index-mark and registration number in such a case shall, if the applicant so desire, be the mark and number allotted when the permit was issued, but this mark and number will become void at the end of one year from the date on which the vehicle was last imported, and then on the application of the owner the council must assign a new mark and number under Road Vehicles (Registration and Licensing) Regulations, 1921 (see *ante*, p. 36) (Regulation 16 (e)).

A council issuing a licence in these circumstances must

advise the registration authority which issued the permit and the Commissioner of Metropolitan Police that they have done so (Regulation 16 (*d*)).

### (C) TEMPORARY USE OF BRITISH CARS ABROAD

A British owner desiring to take his car or motor cycle abroad, for temporary use there, may secure an international travelling pass by applying to the Royal Automobile Club or the Automobile Association and Motor Union for certificates of the fitness of the vehicle and the capacity of the driver or drivers (see *ante*, p. 238) (International Circulation Order, 1910, Art. I (1)).

These certificates and passes are valid for one year (Art. II (2)). The fee for issuing a certificate or pass is 7s., or 3s. 6*d.* in the case of a motor cycle (Art. III).

The forms of such certificates are as set out in Schedule 2 to the International Circulation Order, 1910, as amended by the Motor Car (International Circulation) (Amendment) Order, 1921, s. 1.

The vehicle must be provided with plates showing the manufacturer's name and number, the horse-power of the engine or the number and bore of its cylinders and the weight unladen, and with plates showing its British number and its nationality, as to all of which see *ante*, p. 242, and Schedule 1 of the International Circulation Order, 1910, *post*, p. 320.

The holder of these certificates and an international travelling pass will be entitled to the benefits of the Convention of 1909, and will have the advantage of modifications of the foreign law corresponding in character to those made in this country in favour of temporary tourists.

## APPENDIX

<p>The Highway Act (1835) . . . 245</p> <p>Locomotive Act (1861) . . . 251</p> <p>Locomotives Act (1865) . . . 255</p> <p>Highways and Locomotives (Amendment) Act (1878) . . . 258</p> <p>Locomotives on Highways Act (1896) . . . 263</p> <p>Locomotives Act (1898) . . . 265</p> <p>Motor Car Act (1903) . . . 272</p> <p>Motor Car (Registration and Licensing) Order (1903) . . . 278</p> <p>Locomotives on Highways Order (1903) . . . 287</p> <p>Motor Cars (Use and Construction) Order (1904) . . . 289</p> <p>Heavy Motor Car Order (1904) . . . 294</p> <p>Locomotives Order (1905) . . . 301</p> <p>Petroleum Order (1907) . . . 304</p> <p>Motor Car (International Circu- lation) Act (1909) . . . 308</p>	<p>Development and Road Improve- ment Funds Act (1909) . . . 308</p> <p>Motor Car Order (1910) and Amendments (1912) . . . 317</p> <p>London Hackney Carriages . . . 328</p> <p>Finance Act (1920) . . . 345</p> <p>Roads Act (1920) . . . 348</p> <p>Road Vehicles (Registration and Licensing) Regulations (1921) 361</p> <p>Motor Car (International Circu- lation) (Amendment) Order (1921) . . . 380</p> <p>Road Vehicles (International Circulation Permit) Regula- tions (1921) . . . 382</p> <p>Road Vehicles (Part Year Licen- sing) Order (1921) . . . 388</p> <p>Finance Act (1921) (s. 22) . . . 391</p>
--	--

### THE HIGHWAY ACT, 1835

(5 & 6 WILL. 4, c. 50)

**56.** *Penalty on surveyor allowing heap of stone, etc., to remain on highway at night.*] If any surveyor or district surveyor shall lay or cause to be laid any heap of stone or any other matter or thing whatsoever upon any highway, and allow the same to remain there at night to the danger or personal damage of any person passing thereon, all due and reasonable precaution not having been taken by the said surveyor to guard against the same, he shall forfeit for every such offence any sum not exceeding five pounds.

\* \* \* \* \*

**65.** *Mode of proceeding if highway is prejudiced by hedges, etc. (a)].* If the surveyor shall think that any carriageway or cartway is prejudiced by the shade of any hedges, or by any trees (except those trees planted for ornament or for shelter to any hopground, house, building, or court-yard of the owner thereof) growing on or near such hedges or other fences, and that the sun and wind are excluded from such highway, to the damage thereof, or if any obstruction is caused in any carriageway or cartway by any hedge or tree, it shall be lawful for any one justice of the peace, on the application of the said surveyor, to summon the owner of the land on which such hedges or trees are growing next adjoining to such carriageway or cartway to appear before the justices at a special sessions for the

(a) By the Highway Act Amendment Act, 1885 (48 & 49 Viet. c. 13), further powers of topping hedges are given, but the Act extends only to Wilts, Dorset, Somerset, Devon, and Cornwall.

highways, to show cause why the said hedges are not cut, pruned, or plashed, or such trees are not pruned or lopped, in such manner that the carriageway or cartway shall not be prejudiced by the shade thereof, and that the sun and wind may not be excluded from such carriageway or cartway, to the damage thereof, or why the obstruction caused in such carriageway or cartway should not be removed; and the question as to the cutting, pruning, or plashing such hedges, or the pruning and lopping such trees, or the removal of such obstruction as aforesaid, shall, upon proof of the service of such summons, and whether the said owner attend or not, be determined at the discretion of such last-mentioned justices; and if such justices shall order and direct that such hedges shall be cut, pruned, or plashed, or such trees pruned or lopped in manner aforesaid, or such obstruction removed, the said owner shall comply therewith within ten days after a copy of such order shall have been left at the usual place of abode of the said owner, or of his steward or agent, and in default thereof shall forfeit, on conviction, a sum not exceeding forty shillings; and the said surveyor, if the order of the said justices is not complied with, shall, and he is hereby authorised and required to, cut, prune, or plash such hedges, and to prune and lop such trees, for the benefit and improvement of the highway, and to remove such obstruction as aforesaid to the best of his skill and judgment, and according to the true intent and meaning of this Act; and the said surveyor shall be reimbursed by the owner as aforesaid what charges and expenses he shall be at in cutting, pruning, and plashing such hedges, and pruning and lopping such trees, and the removal of such obstruction, over and above the said forfeiture: and it shall and may be lawful for the justices at a special sessions for the highways, upon proof to them made upon oath, to levy as well the expenses of cutting, pruning, and plashing such hedges, or pruning and lopping such trees, or removal of such obstructions as aforesaid, as the several and respective penalties hereby imposed, by distress and sale of the offender's goods and chattels, in such manner as distresses and sales for forfeitures are authorised and directed to be levied by virtue of this Act.

66. *Time of cutting hedges and trees.*] Provided always, that no person shall be compelled nor any surveyor permitted to cut or prune any hedge at any time other than between the last day of September and the last day of March; and that no person shall be obliged to fell any timber trees growing in hedges at any time whatsoever except where the highways shall be ordered to be widened or enlarged as herein mentioned, or then to cut down or grub up any oak trees growing in such highway or in such hedges except in the months of April, May, or June, or any ash, elm, or other trees in any other months than December, January, February, or March.

\* \* \* \* \*

72. *Penalty on persons committing nuisances by riding on footpaths, etc.*] If any person shall wilfully ride upon any footpath or causeway by the side of any road made or set apart for the use or accommodation of foot passengers;

or shall wilfully lead or drive any horse, ass, sheep, mule, swine, or cattle, or carriage of any description or any truck or sledge upon such footpath or causeway;

or shall tether any horse, ass, mule, swine, or cattle on any highway so as to suffer or permit the tethered animal to be thereon;

*by injuring the road.*]) or shall cause any injury or damage to be done to the said highway, or the hedges, posts, rails, walls, or fences thereof ; or shall wilfully obstruct the passage of any footway ;

or wilfully destroy or injure the surface of any highway ;

or shall wilfully or wantonly pull up, cut down, remove or damage the posts, blocks, or stones fixed by the said surveyor as herein directed ;

*by damaging banks, causeways, direction posts, milestones, etc.*]) or dig or cut down the banks which are the securities and defence of the said highway ;

or break, damage, or throw down the stones, bricks, or wood fixed upon the parapets or battlements of bridges or otherwise injure or deface the same ;

or pull down, destroy, obliterate, or deface any milestone or post, graduated or direction post or stone, erected upon any highway ;

or shall play at football or any other game on any part of the said highway, to the annoyance of any passenger or passengers ;

or if any hawker, higgler, gipsy, or other person travelling shall pitch any tent, booth, stall, or stand, or encamp upon any part of any highway ;

*by making fires.*]) or if any person shall make or assist in making any fire or shall wantonly fire off any gun or pistol, or shall set fire to or wantonly let off or throw any squib, rocket, serpent, or other firework whatsoever, within fifty feet of the centre of such carriage or cartway ;

*by baiting bulls.*]) or bait, or run for the purpose of baiting, any bull upon or near any highway ;

*by laying timber, etc.*]) or shall lay any timber, stone, hay, straw, dung, manure, lime, soil, ashes, rubbish, or other matter or thing whatsoever upon such highway, to the injury of such highway, or to the injury, interruption or personal danger of any person travelling thereon ;

*by running of filth.*]) or shall suffer any filth, dirt, lime, or other offensive matter or thing whatsoever to run or flow into or upon any highway from any house, building, erection, lands or premises adjacent thereto ;

or shall in any way wilfully obstruct the free passage of any such highway ;

every person so offending in any of the cases aforesaid shall for each and every such offence forfeit and pay any sum not exceeding forty shillings over and above the damages occasioned thereby.

\* \* \* \* \*

76. *Names of owners to be painted on all waggons, etc., in the manner herein mentioned.*]) The owner of every waggon, cart, or other such carriage shall paint or cause to be painted in one or more straight line or lines, upon some conspicuous part of the right or off side of his waggon, cart, or other such carriage, or upon the off-side shafts thereof, before the same shall be used on any highway, his Christian name and surname, or the style and title by which he is commonly designated, and the place of his trade or abode, or the Christian name and surname and place of trade or abode of a partner or owner thereof, at full length, in large legible letters in white upon black, or black upon white, not less than one inch in height, and continue the same thereupon so long as such waggon, cart, or other such carriage shall be used upon any highway : and every owner of any waggon, cart, or other such carriage who shall use or allow the same to be used on any highway without the name and description painted thereon as aforesaid, or who shall suffer the same to become illegible, or who shall paint or cause to be painted any false or fictitious name or place of trade

or abode on such waggon or cart or other such carriage, shall forfeit and pay, on conviction for every such offence, a sum not exceeding forty shillings with or without costs, as to the justice before whom the conviction shall take place shall think fit.

\* \* \* \* \*

78. *Drivers of waggons or carts not to ride thereon unless some other person guide them.*] If the driver of any waggon, cart, or other carriage of any kind shall ride upon such carriage or upon any horse or horses drawing the same, on any highway, not having some other person on foot or on horseback to guide the same (such carriage and carts as are driven with reins and are conducted by some person holding the reins of all the horses drawing the same excepted);

*Drivers causing hurt or damage to others, or quitting the road.*] Or if the driver of any carriage whatsoever on any part of any highway shall, by negligence or wilful misbehaviour, cause any hurt or damage to any person, horse, cattle, or goods conveyed in any carriage passing or being upon such highway, or shall quit the same and go on the other side of the hedge or fence inclosing the same, or negligently or wilfully be at such distance from such carriage or in such a situation whilst it shall be passing upon such highway that he cannot have the direction and government of the horses or cattle drawing the same, or shall leave any cart or carriage on such highway so as to obstruct the passage thereof;

*or driving carriage without owner's name.*] or if any person shall drive or act as the driver of any waggon, cart, or other carriage not having the owner's names as hereby required painted and remaining legible thereon and shall refuse to tell or to discover the true Christian and surname of the owner or principal owners of such waggon, cart, or carriage;

*or not keeping the left or near side.*] or if the driver of any waggon, cart, or other carriage whatsoever, or of any horses, mules, or other beasts of draught or burden, meeting any other waggon, cart, or other carriage, or horses, mules, or other beasts of burden, shall not keep his waggon, cart, or carriage, or horses, mules, or other beasts of burden, on the left or near side of the road;

*or interrupting free passage.*] or if any person shall in any manner wilfully prevent any other person from passing him, or any waggon, cart, or other carriages, or horses, mules, or other beasts of burden, under his care upon such highway, or by negligence or misbehaviour prevent, hinder, or interrupt the free passage of any person, waggon, cart, or other carriage, or horses, mules, or other beasts of burden, on any highway, or shall not keep his waggon, cart, or other carriage, or horses, mules, or other beasts of burden, on the left or near side of the road for the purpose of allowing such passage;

*If not the owner, to forfeit £5; if he be the owner, £10.*] or if any person riding any horse or beast or driving any sort of carriage shall ride or drive the same furiously so as to endanger the life or limb of any passenger; every person so offending in any of the cases aforesaid and being convicted of any such offence, either by his own confession, the view of the justice, or by the oath of one or more credible witnesses before any two justices of the peace, shall, in addition to any civil action to which he may make himself liable, for every such offence forfeit any sum not exceeding five pounds in case such driver shall not be the owner of such waggon, cart, or other carriage, and in case the offender be the owner of such

waggon, cart, or other carriage, then any sum not exceeding ten pounds, and in either of the said cases shall in default of payment be committed to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding six weeks, unless such forfeiture shall be sooner paid; and every such driver offending in either of the said cases shall and may, by the authority of this Act, with or without any warrant, be apprehended by any person who shall see such offence committed, and shall be conveyed before any justice of the peace to be dealt with according to law.

*Proceedings if driver will not discover his name.*] And if any such driver in any of the cases aforesaid shall refuse to discover his name, it shall and may be lawful for the said justice of the peace before whom he shall be taken, or to whom any such complaint shall be made, to commit him to the common gaol or house of correction, there to be kept to hard labour for any time not exceeding three months, or to proceed against him for the penalty aforesaid by a description of his person and the offence only without adding any name or designation, but expressing in the proceedings that he refused to discover his name.

\* \* \* \* \*

94. *Mode of proceedings before justices if highway is out of repair.*] If any highway is out of repair, or is not well and sufficiently repaired and amended, and information thereof on the oath of one credible witness is given to any justice of the peace, it shall and may be lawful for such justice, and he is hereby authorised and required to issue a summons requiring the surveyor of the parish, or other person or body politic or corporate chargeable with such repairs, to appear before the justices at some special sessions for the highways in the said summons mentioned, to be held within the division in which the said highway may be situate;

and the said justices shall either appoint some competent person to view the same, and report thereon to the justices in special sessions assembled, on a certain day and place to be then and there fixed, at which the said surveyor of the highways, or other party as aforesaid, shall be directed to attend, or the said justices shall fix a day whereon they or any two of them shall attend to view the said highway;

and if to the justices at such special sessions, on the day and at the place so fixed as aforesaid, it shall appear either on the report of the said person so appointed by them to view, or on the view of such justices, that the said highway is not in a state of thorough and effectual repair, they, the said justices at such last-mentioned sessions, shall convict the said surveyor or other party liable to the repair of the said highway in any penalty not exceeding five pounds, and shall make an order on the said surveyor or other person or bodies politic or corporate liable to repair such highway, by which order they shall limit and appoint a time for repairing of the same;

and in default of such repairs being effectually made within the time so limited, the said surveyor, or such other person or body politic or corporate as aforesaid, shall forfeit and pay to some person to be named and appointed in a second order, a sum of money to be therein stated, and which shall be equal in amount to the sum which the said justices shall, on the evidence produced before them, judge requisite for repairing such highway, which money shall be recoverable in the same manner as any forfeiture is recoverable under this Act, and such money when recovered shall be applied to the repair of such highway: and in case

more parties than one are bound to repair any such highway, the said justices shall be paid by each of the said parties.

Provided that if the highway so out of repair is a part of a turnpike road, the said justices shall summon the treasurer or surveyor or other officer of such turnpike road, and the order herein directed to be made shall be made on such treasurer or surveyor or other officer as aforesaid, and the money therein stated shall be recoverable as aforesaid.

Provided nevertheless, that the said justices shall not have power to make such order as aforesaid in any case where the duty or obligation of repairing the said highway comes in question.

95. *Mode of proceeding if obligation to repair is disputed.*] If on hearing of any such summons respecting the repair of any highway the duty or obligation of such repairs is denied by the surveyor on behalf of the inhabitants of the parish, or by any other party charged therewith, it shall then be lawful for such justices, and they are hereby required, to direct a bill of indictment to be preferred and the necessary witnesses in support thereof to be subpoenaed, at the next assizes to be holden in and for the said County, or at the next general quarter sessions of the peace for the County, riding, division, or place wherein such highway shall be, against the inhabitants of the parish, or the party to be named in such order, for suffering and permitting the said highway to be out of repair; and the costs of such prosecution shall be directed by the Judge of Assize before whom the said indictment is tried, or by the justices at such quarter sessions, to be paid out of the rate made and levied in pursuance of this Act in the parish in which such highway shall be situate: Provided nevertheless that it shall be lawful for the party against whom such indictment shall be so preferred at the quarter sessions as aforesaid to remove such indictment by certiorari or otherwise into (his Majesty's Court of King's Bench).

96. *Fines, penalties, and forfeitures, how to be levied and applied.*] No fine, issue, penalty, or forfeiture for not repairing the highway, or not appearing to any indictment for not repairing the same, shall hereafter be returned into the Court of Exchequer or other Court, but shall be levied by and paid into the hands of such person, residing in or near the parish where the road shall lie, as the justices or Court imposing such fines, issues, penalties, or forfeitures shall order and direct, to be applied towards the repair and amendment of such highway; and the person so ordered to receive such fine shall and is hereby required to receive, apply, and account for the same according to the direction of such justices or Court, or in default thereof shall forfeit double the sum received; and if any fine, issue, penalty, or forfeiture to be imposed for not repairing the highway, or not appearing as aforesaid, shall hereafter be levied on any inhabitant of such parish, township, or place, then such inhabitant shall and may make his complaint to the justices at a special sessions for the highways; and the said justices are hereby empowered and authorised by warrant under their hands, to make an order on the surveyor of the parish for payment of the same out of the money receivable by him for the highway rate, and shall within two months next after service of the said order on him pay unto such inhabitant the money therein mentioned.

LOCOMOTIVE ACT, 1861 (*b*)

(24 &amp; 25 VICT. C. 70)

*AN ACT for regulating the Use of Locomotives on Turnpike and other Roads; and the Tolls to be levied on such Locomotives and on the Waggon and Carriages drawn or propelled by the same.*

[1st August 1861.]

[Preamble repealed, S. L. R. Act, 1892, 55 &amp; 56 Vict. c. 19.]

1. *Scale of Tolls to be taken after passing of this Act.*] Trustees, Corporations, Commissioners, and other Persons acting under and in execution of any existing General or Local Turnpike Road Act or Public Bridge Act shall demand and take Tolls not exceeding the Tolls following; that is to say,

For every Locomotive propelled by any Power containing within itself the Machinery for its own Propulsion, such a Toll for every Two Tons Weight or fractional Part of every Two Tons Weight that such Locomotive shall weigh as shall be equal to the Toll or Tolls by their respective Acts made payable for every Horse drawing any Waggon, Wain, Cart, or Carriage with Wheels of a Width similar to those of such Locomotive; or in the case of a Toll by any such Act made payable being charged on the Horse or Horses drawing any such Waggon, Wain, Cart, or Carriage, without reference to the Width of the Wheels thereof, then such a Toll for every Two Tons or fractional Part thereof that such Locomotive shall weigh as shall be equal to One Horse drawing such Waggon, Wain, Cart, or Carriage; which Tolls respectively shall be payable so often as Tolls made payable as aforesaid for such Waggon, Wain, Cart, or Carriage shall be payable at the same Gate: Provided always, that if the Wheels of such Locomotive shall rest upon any Shoe or other Bearing the Surface of which shall bear upon the Ground so as to prevent the Wheels coming in contact therewith, such and the same Tolls only shall be demanded and payable as if the Wheels thereof were of a Width similar to such Shoe or Bearing:

For every Waggon, Wain, Cart, or Carriage drawn or propelled by any Locomotive, for each Pair of Wheels thereof such a Toll as shall not exceed the Toll by their respective Acts made payable for Two Horses drawing any Waggon, Wain, Cart, or Carriage with Wheels of a similar Width, and for every additional Wheel thereof One Half Toll in addition to the said Toll; or in the Case of a Toll by any such Act made payable being charged on the Horse or Horses drawing any such Waggon, Wain, Cart, or Carriage, without reference to the Width of the Wheels thereof, then such a Toll for each Wheel as shall be equal to One Horse drawing such Waggon, Wain, Cart, or Carriage; which said Toll or Tolls shall be payable so often as the Toll made payable as aforesaid for such Waggon, Wain, Cart, or Carriage drawn by Horses shall be payable at the same Gate:

Provided always, that in every Case where the Wheels of any Waggon, Wain, Cart, or Carriage shall not all be cylindrical, as described in the Act of the Third Year of *George* the Fourth, Chapter One hundred and twenty-six, Section Nine, the Toll payable in respect thereof shall be One Half more.

(*b*). Portions in italics repealed, S. L. R. Act, 1892 (55 & 56 Vict. c. 19).

2. *Repeal of former Enactments as to Tolls to be taken for Locomotives.*] All Clauses and Provisions in any Local or General Turnpike Road Act or Public Bridge Act authorising Tolls to be demanded or taken upon Locomotives or Carriages drawn by Steam or any other than Animal Power, different to the Tolls herein provided for, shall, so far as the same relate to such Tolls, be and the same are hereby repealed: Provided always, that this Enactment shall not be deemed or construed to extend to any Tolls authorised to be taken in respect of any private Roads or private Bridges, or to the Roads comprised in "The Commercial Roads Continuation Act, 1849."

3. *As to the size and Weight of Locomotives.*] Every Locomotive propelled by Steam or any other than Animal Power, not drawing any Carriage, and not exceeding in Weight Three Tons, shall have the Tires of the Wheels thereof not less than Three Inches in Width, and for every Ton or fractional Part thereof additional Weight the Tires of the Wheels thereof shall be increased One Inch in Width; and every Locomotive drawing any Waggon or Carriage shall have the Tires of the Wheels thereof not less than Nine Inches in Width; but no Locomotive shall exceed Seven Feet in Width or Twelve Tons in Weight, except as herein-after provided; and the Wheels of every Locomotive shall be cylindrical and smooth soled, or used with Shoes or other bearing Surface of a Width not less than Nine Inches; and the Owner or Owners of any Locomotive used contrary to the Foregoing Provisions shall for every such Offence, on summary Conviction, forfeit any Sum not exceeding Five Pounds: Provided always, that whereas it may be desirable that Locomotives of a greater Width than Seven Feet and of a greater Weight than Twelve Tons should be allowed to be used under certain Circumstances, any person desiring to use any such Locomotive on any Street or public Highway within the City of London or the Liberties thereof, or within the Limits of the Metropolis as defined by the Act of the Eighteenth and Nineteenth Years of Her present Majesty, for the better Local Management of the Metropolis, or within any other City or Municipal or Parliamentary Borough, or on any Turnpike Road or other public Highway, shall apply within the City of London to the Lord Mayor for the Time being, or within any Municipal or Parliamentary Borough in Scotland to the Lord Provost or other Chief Magistrate thereof, and in other Places to the Corporation, Commissioner, Trustees, and Surveyors, or other Persons having the Charge of any such Street, Highway, Turnpike, or other Road over which it may be proposed to work such Locomotive, for Permission to use the same: and the said Lord Mayor, the said Lord Provost or Chief Magistrate, or such Corporation, Commissioners, Trustees, Surveyor, and other Persons as aforesaid, shall have Power to authorise such Locomotive to be used on such Road or Roads, or Part of any Road or Roads, and under such Condition or Conditions as to them may appear desirable; but in the Case of the Surveyor or Surveyors of any Highway in England no such Permission shall be valid without also it be approved by the Justices acting in Petty Sessions for any Petty Sessional Division within which it is proposed to use such Locomotive (c).

4. *As to the weight on each pair of wheels.*] It shall not be lawful for any Waggon, Wain, Cart, or other Carriage so drawn or propelled as aforesaid, not having cylindrical Wheels, to carry any greater Weight than is permitted in such Waggon, Wain, Cart, or Carriage by the General

(c) Repealed, as to England, by the Highways and Locomotives Act, 1878 (41 & 42 Vict. c. 77), s. 28.

Turnpike Act (d); and it shall not be lawful for any Waggon, Wain, Cart, or other Carriage having cylindrical Wheels to carry over or above the Weight of the Waggon, Wain, Cart, or Carriage, any greater Weight than One Ton and a Half for each Pair of Wheels, unless the Fellies, Tires, or Shoes are Four Inches or more in Breadth; nor to carry a greater Weight than Two Tons for each Pair of Wheels, unless the Fellies, Tires, or Shoes are Six Inches or more in Breadth; nor to carry a greater Weight than Three Tons for each Pair of Wheels, unless the Fellies, Tires, or Shoes are Eight Inches or more in Breadth; and for every single Wheel One Half of that permitted to be carried on a Pair of Wheels; nor in any Case to carry a greater Weight than Four Tons on each Pair of Wheels, or two Tons on each Wheel; but if such Waggons, Wains, or other Carriages are built and constructed with Springs upon each Axle, then they shall be allowed to carry One Sixth more Weight in addition to the above-mentioned Weights upon each Pair of Wheels (e).

5. *Power to Secretary of State to prohibit the Use of Locomotives destructive to Highways or dangerous to the Public* [repealed by Locomotives Act, 1865, *post*, p. 255].

6. *Use of Locomotives restricted over suspension and other Bridges.* It shall not be lawful for the Owner or Driver of any Locomotive to drive it over any Suspension Bridge nor over any Bridge on which a conspicuous Notice has been placed, by the Authority of the Surveyor or Persons liable to the Repair of the Bridge, that the Bridge is insufficient to carry Weights beyond the ordinary Traffic of the District, without previously obtaining the Consent of the Surveyor of the Road or Bridgmaster under whose Charge such Bridge shall be for the Time being, or of the Persons liable to the Repair of such Bridge (f).

7. *Damage caused by Locomotives to Bridges to be made good by Owners.* Where any Turnpike or other Roads, upon which Locomotives are or hereafter may be used, pass or are or shall be carried over or across any Stream or Watercourse, navigable River, Canal, or Railway, by means of any Bridge or Arch (whether stationary or movable), and such Bridge or Arch, or any of the Walls, Buttresses, or Supports thereof, shall be damaged by reason of any Locomotive or any Waggon or Carriage drawn or propelled by or together with a Locomotive passing over the same or coming into contact therewith, none of the Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, or other Persons interested in or having the Charge of such navigable River, Canal, or Railway, or the Tolls thereof, or of such Bridge or Arch, shall be liable to repair or make good any Damage so to be occasioned, or to make Compensation to any Person for any Obstruction, Interruption, or Delay which may arise therefrom to the Use of such Bridge or Arch, navigable River, Canal, or Railway, but every such Damage shall be forthwith repaired to the Satisfaction of the Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, or other Persons as aforesaid, respectively interested in or having the Charge of such River, Canal, or Railway, or the Tolls thereof, or of such Bridge or Arch, by and at the

(d) 3 Geo. 4, c. 126. For the relevant provisions, see Pratt and Mackenzie on Highways (1905), pp. 689, 690.

(e) The remainder is repealed and replaced by sect. 1 of the Locomotives Act, 1898, *post*, p. 265.

(f) Remainder repealed by Locomotives Act, 1898, sect. 18, *post*, p. 265.

Expense of the Owner or Owners or the Person or Persons having the Charge of such Locomotive at the Time of the happening of such Damage ; and all such Owner and Owners, Person and Persons having the Charge of such Locomotive as aforesaid, shall also be liable, both jointly and severally, to reimburse and make good as well to the Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, and other Persons interested in or having the Charge of any such navigable River, Canal, or Railway, or the Tolls thereof, or of such Bridge or Arch, as to all Persons navigating on or using, or who but for such Obstruction, Interruption, or Delay would have navigated on or used the same, all Losses and Expenses which they or any of them may sustain or incur by reason of any such Obstruction, Interruption, or Delay, such Losses and Expenses to be recoverable by Action at Law, which Action, in case of such Proprietors, Undertakers, Directors, Conservators, Trustees, Commissioners, or other Persons so interested as aforesaid, may be brought in the Name or Names of their Agent or Agents, Clerk or Clerks for the Time being, or by any Person or Persons legally authorised to act in their Behalf.

8. *Locomotives propelled by Steam to consume their own Smoke.*] Every Locomotive propelled by Steam or any other than Animal Power to be used on any Turnpike Road or public Highway shall be constructed on the Principle of consuming and so as to consume its own Smoke ; and any Person using any Locomotive not so consuming its own Smoke shall, on Conviction thereof before any Two of Her Majesty's Justices of the Peace, forfeit any Sum not exceeding Five Pounds for every Day during which such Locomotive shall be used on any such Turnpike Road or public Highway (g).

9. *As to the Number of Persons in charge of Locomotive and Waggon*s [repealed by Locomotives Act, 1898, sect. 2, *post*, p. 266].

10. *Exemption from Tolls of Waggon*s, etc., now exempt under any General or Local Act.] All Waggons, Wains, Carts, or Carriages, as herein-before described, drawn by any Locomotive, and loaded with any Materials such as are now exempt from Toll under the Provisions of any General or Local Act, shall be entitled to the same Exemption as they would be if drawn by Animal Power.

11. *Limit of Speed of Locomotives on Public Highways, etc.* [repealed by Locomotives Act, 1865, sect. 2, *post*, p. 255].

12. *Provisions of General Acts relating to Turnpike Roads to apply to Locomotives.*] All the Clauses and Provisions of any General or Local Acts relating to Turnpike Roads or Highways shall, so far as the same are not expressly altered or repealed by or are not inconsistent with the Provisions of this Act, apply to all Locomotives propelled by other than Animal Power, and to all Waggons, Wains, Carts, and Carriages of any other Description drawn by such Locomotive, and to the Owners, Drivers, and Attendants thereof, in like Manner as if drawn by Animal Power : Provided always, that the Weight of every Locomotive, and the Name of the Owner or Owners thereof, shall be conspicuously and legibly affixed thereon : and any Owner not having affixed such Weight and such name shall, upon Conviction thereof before Two Justices, forfeit any Sum not exceeding Five Pounds ; and any Owner who shall fraudulently affix thereon

(g) Repealed, as to England, by Highways and Locomotives Amendment Act, 1878, sect. 30, *post*, p. 258.

any incorrect Weight shall, upon Conviction thereof, forfeit any Sum not exceeding Ten Pounds.

13. *Right of Action in case of Nuisance.*] Nothing in this Act contained shall authorise any Person to use upon a Highway a Locomotive Engine which shall be so Constructed or used as to cause a public or private Nuisance; and every such Person so using such Engine shall, notwithstanding this Act, be liable to an Indictment or Action, as the Case may be, for such Use where, but for the passing of this Act, such Indictment or Action could be maintained.

14. *Short title.*] This Act may be cited as the "Locomotive Act, 1861."

15. *Extent of Act* [repealed by Locomotives Act, 1865, sect. 2. The Act now extends to the United Kingdom].

## LOCOMOTIVES ACT, 1865

(28 & 29 VICT. c. 83)

*AN ACT for further regulating the Use of Locomotives on Turnpike and other Roads for agricultural and other Purposes.*

WHEREAS by the "Locomotives Act, 1861," [24 & 25 Vict. c. 70] certain provision was made for regulating the Use of Locomotives on Turnpike and other Roads, and it is expedient that further and fuller Provision should be made for that Object: Be it therefore enacted by the Queen's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, as follows:

1. *Commencement of Act.*] This Act shall not come into operation till the First Day of September One thousand eight hundred and sixty-five, which Day is herein-after referred to as the Commencement of the Act (*h*) and shall cease and determine on the First of September One thousand eight hundred and sixty-seven.

2. *Certain sections of 24 & 25 Vict. c. 70, repealed.* After the Commencement of this Act, and so long as the same shall continue in force, the Fifth, Ninth, Eleventh, and Fifteenth Sections of the said recited Act, and all Orders made in pursuance of the said Fifth Section, are hereby repealed.

3. *Rules for the Manner of working Locomotives on Turnpike Roads and Highways as herein stated.*] Every Locomotive propelled by Steam or any other than Animal Power on any Turnpike Road or public Highway shall be worked according to the following Rules and Regulations: *viz.*

*Firstly, at least Three Persons shall be employed to drive or conduct such Locomotive, and if more than Two Waggon or Carriages be attached thereto, an additional Person shall be employed, who shall take charge of such Waggon or Carriages:*

*Secondly, one of such Persons, while any Locomotive is in Motion, shall precede such Locomotive on Foot by not less than Sixty Yards, and shall carry a Red Flag constantly displayed, and shall warn the Riders and Drivers of Horses of the Approach of such Locomotives, and shall signal*

(*h*) Part in italics repealed, S. L. R. Act, 1893. The Act so far as unrepealed was made permanent by Expiring Laws Act, 1922 (12 & 13 Geo. 5, c. 50), s. 1.

*the Driver thereof when it shall be necessary to stop, and shall assist Horses, and Carriages drawn by Horses, passing the same (i) :*

Thirdly, the Drivers of such Locomotives shall give as much Space as possible for the passing of other Traffic :

Fourthly, the Whistle of such Locomotive shall not be sounded for any Purpose whatever ; nor shall the Cylinder Taps be opened within Sight of any Person riding, driving, leading, or in charge of a Horse upon the Road ; nor shall the Steam be allowed to attain a Pressure such as to exceed the Limit fixed by the Safety Valve, so that no Steam shall blow off when the Locomotive is upon the Road :

Fifthly, every such Locomotive shall be instantly stopped, on the Person preceding the same, or any other Person with a Horse, or Carriage drawn by a Horse, putting up his Hand as a Signal to require such Locomotive to be stopped :

Sixthly, any Person in charge of any such Locomotive shall provide Two efficient Lights to be affixed conspicuously, One at each Side on the Front of the same, between the Hours of One Hour after Sunset and One Hour before Sunrise.

*Penalty on Non-compliance with Rules.]* In the event of a Non-compliance with any of the Provisions of this Section, the Owner of the Locomotive shall, on summary Conviction thereof before Two Justices, be liable to a Penalty not exceeding Ten Pounds ; *but it shall be lawful for such Owner, on proving that he has incurred such Penalty by reason of the Negligence or wilful Default of any Person in charge of or in attendance on such Locomotive, to recover summarily from such Person the whole or any Part of the Penalty he may have incurred as Owner (j).*

4. *Limit of Speed of Locomotives on Turnpike Roads and Highways.]* Subject and without Prejudice to the Regulations herein-after authorised to be made by Local Authorities, it shall not be lawful to drive any such Locomotive along any Turnpike Road or public Highway at a greater Speed than Four Miles an Hour, or through any City, Town, or Village at a greater Speed than Two Miles an Hour ; and any Person acting contrary thereto shall for every such Offence, on summary Conviction thereof, forfeit any Sum not exceeding Ten Pounds.

5. *Size and Weight of Locomotives which may be used (k).]*

6. *Restrictions as to the Use of Steam Engines within 25 Yards of Roads not to apply to Locomotives used for ploughing Purposes.]* Any Provision in any Act contained prohibiting, under Penalty, the Erection and Use of any Steam Engine, Gin, or other like Machine, or any Machinery attached thereto, within the Distance of Twenty-five Yards from any Part of any Turnpike Road, Highway, Carriageway, or Cartway, unless such Steam Engine, Gin, or other like Engine or Machinery be within some House or other Building, or behind some Wall, Fence, or Screen sufficient to conceal or screen the same from such Turnpike Road, Highway, Carriageway, or Cartway, shall not extend to prohibit the Use of

(i) Part in italics repealed, as to England, by sect. 29 (now repealed) of the Highways and Locomotives Amendment Act, 1878, *post*, p. 269 ; see also the Locomotives Act, 1898, s. 5.

(j) Part in italics repealed by Locomotives Act, 1898, s. 18, *post*, p. 271.

(k) Repealed by Highways and Locomotives Amendment Act, 1878, which makes other provisions, *post*, p. 258.

any Locomotive Steam Engine for the Purpose of ploughing within such Distance of any such Turnpike Road, Highway, Carriageway, or Cartway, provided a Person shall be stationed in the Road, and employed to signal the Driver when it shall be necessary to stop, and to assist Horses, and Carriages drawn by Horses, passing the same, and provided the Driver of the Engine do stop in proper Time.

7. *Name and Residence of Owner to be affixed to Locomotives.*] The Name and Residence of the Owner of every Locomotive shall be affixed thereto in a conspicuous Manner. If it is not so affixed the Owner shall, on summary Conviction, be liable to a Penalty not exceeding Two Pounds.

8. *Power to Local Authorities to make Orders as to Hours, etc., Locomotives may pass through Cities, etc.*] The following Local Authorities, (that is to say,)

1. *In the City of London and Liberties thereof, the Court of the Lord Mayor and Aldermen ;*
2. *In the Metropolis, as defined by the Act of the Session of the Eighteenth and Nineteenth Years of Her present Majesty, Chapter One hundred and twenty (except the City of London), the Metropolitan Board of Works ;*
3. *In any Borough in England the Population of which shall have exceeded Five thousand at the last Census, the Council of the Borough ;*
4. *In any Borough or Town in England the Population of which shall have exceeded Five thousand at the last Census, not within the Jurisdiction of a Council, but within the Jurisdiction of any Trustees or Improvement Commissioners appointed under any Public or Private Act of Parliament, the Trustees or Commissioners ;*
5. *In any Borough or Town in Scotland the population of which shall have exceeded Ten thousand at the last Census, within the Jurisdiction of a Town Council, the Town Council, and in any such town in Scotland not within the Jurisdiction of a Town Council, but subject to the Jurisdiction of Police Commissioners, or of Trustees exercising under any Public or Private Act of Parliament the Functions of Police Commissioners, the Police Commissioners, or, where there are no Police Commissioners, then the Trustees,—*

*Penalty on acting contrary to such Orders.*] may make Orders as to the Hours during which (and as to the Speed, not in any Case to exceed Two Miles an Hour, at which,) Locomotives are to pass through the City or Place subject to their respective Jurisdictions ; and any Person in charge of a Locomotive acting contrary to such Regulations shall, on summary Conviction, be liable to a Penalty not exceeding Ten Pounds :

Every Order made in pursuance of this Section shall be reduced into Writing, and shall have affixed thereto the Common Seal of the Local Authority, where they have a Common Seal, and shall be signed by the Members of the Local Authority, or any two of them, where they have not a Common Seal :

A Copy of such Order shall be affixed to some Public Place within the Jurisdiction of the Local Authority, and advertised in some Newspaper circulating within the Jurisdiction of the Local Authority, and the production of a Newspaper containing such Advertisement shall be Evidence of the Copy having been advertised in pursuance of this Act (l).

(l) Repealed, as to England, by sect. 31 of the Highways and Locomotives Amendment Act, 1878, s. 31, *post*, p. 260.

9 & 10. *Provisions as to Ireland.*]

11. *Sect. 41, of 25 & 26 Vict. c. 93, not to be affected.*] Nothing in this Act contained shall repeal, alter, or in any way affect the Provisions of the Forty-first Section of "The *Thames Embankment Act, 1862.*"

12. *Saving as to Actions at Law.*] Nothing in this Act contained shall authorise any Person to use a Locomotive which may be so constructed or used as to be a public Nuisance at Common Law, and nothing herein contained shall affect the Right of any Person to recover Damages in respect of any Injury he may have sustained in consequence of the Use of a Locomotive.

13. *Short Title.*] This Act may be cited as "The Locomotives Act, 1865"; and "The Locomotives Act, 1861," and this Act, shall be construed together as One Act.

## HIGHWAYS AND LOCOMOTIVES (AMENDMENT) ACT, 1878

(41 & 42 VICT. C. 77)

(1878, 16th August [R. Assent])

### *Extraordinary Traffic*

23. *Power of Road Authority to recover Expenses of Extraordinary Traffic.*] Where by a certificate of their surveyor it appears to the authority which is liable or has undertaken to repair any highway, whether a main road or not, that having regard to the average expense of repairing highways in the neighbourhood, extraordinary expenses have been incurred by such authority in repairing such highway by reason of the damage caused by excessive weight passing along the same or extraordinary traffic thereon, such authority may recover in a summary manner from any person by whose order such weight or traffic has been conducted the amount of such expenses as may be proved to the satisfaction of the Court having cognisance of the case to have been incurred by such authority by reason of the damage arising from such weight or traffic as aforesaid.

Provided that any person against whom expenses are or may be recoverable under this section may enter into an agreement with such authority as is mentioned in this section for the payment to them of a composition in respect of such weight or traffic, and thereupon the persons so paying the same shall not be subject to any proceedings under this section.

\* \* \* \* \*

### *Byelaws by County Authority*

26. *Power of county authority to make byelaws.*] A county authority may from time to time make, with respect to all or any main roads or other highways within any highway area in their county, and when made alter or repeal, byelaws for all or any of the purposes following; that is to say,

- (1) For prohibiting or regulating the use of any waggon wain cart or carriage drawn by animal power and having wheels of which the fellies or tires are not of such width in proportion to the weight carried by, or to the size of, or to the number of wheels of such waggon wain cart or carriage, as may be specified in such byelaws; and

- (2) For prohibiting or regulating the use of any waggon wain cart or other carriage drawn by animal power not having the nails on its wheels countersunk in such manner as may be specified in such byelaws, or having on its wheels bars or other projections forbidden by such byelaws; and
- (3) For prohibiting or regulating the locking of the wheel of any waggon wain cart or carriage drawn by animal power when descending a hill, unless there is placed at the bottom of such wheel during the whole time of its being locked a skidpan slipper or shoe in such manner as to prevent the road from being destroyed or injured by the locking of such wheel; and
- (4) For prohibiting or regulating the erection of gates across highways, and prohibiting gates opening outwards on highways; and
- (5) *For regulating the use of bicycles (m).*

Fines to be recovered summarily may be imposed by any such byelaws on persons breaking any byelaw made under this section, provided that no fine exceeds for any one offence the sum of two pounds, and that the byelaws are so framed as to allow of the recovery of any sum less than the full amount of the fine.

## PART II

### AMENDMENT OF LOCOMOTIVE ACTS, 1861 AND 1865.

28. *Weight of locomotives and construction of wheels. Section three of the Locomotive Act, 1861, and section five of the Locomotives Act, 1865, are hereby repealed, so far as relates to England, and in lieu thereof be it enacted that it shall not be lawful to use on any turnpike road or (n) highway a locomotive constructed otherwise than in accordance with the following provisions; (that is to say,)*

- (1) A locomotive not drawing any carriage, and not exceeding in weight three tons, shall have the tires of the wheels thereof not less than three inches in width, with an additional inch for every ton or fraction of a ton above the first three tons; and
- (2) A locomotive drawing any waggon or carriage shall have the tires of the driving wheels thereof not less than two inches in width for every ton in weight of the locomotive, unless the diameter of such wheels shall exceed five feet, when the width of the tires may be reduced in the same proportion as the diameter of the wheels is increased, but in such case the width of such tires shall not be less than fourteen inches; and
- (3) A locomotive shall not exceed nine feet in width or fourteen tons in weight, except as hereinafter provided; and
- (4) The driving wheels of a locomotive shall be cylindrical and smooth-soled, or shod with diagonal cross-bars of not less than three inches in width nor more than three-quarters of an inch in thickness, extending the full breadth of the tire, and the space intervening between each such cross-bar shall not exceed three inches.

The owner of any locomotive used contrary to the foregoing provisions shall for every such offence be liable to a fine not exceeding five pounds:

(m) Part in italics repealed by Local Government Act, 1888, sect. 85 (1). Byelaws as to bicycles are now made under that Act.

(n) Parts in italics repealed by S. L. R. Acts, 1894, 1898.

Provided that the mayor, aldermen, and commons in the city of London, and the Metropolitan Board of Works in the metropolis, exclusive of the city of London, and the council of any borough which has a separate court of quarter sessions, and the county authority of any county, may, on the application of the owner of any locomotive exceeding nine feet in width or fourteen tons in weight, authorise such locomotive to be used on any turnpike road or highway within the areas respectively above mentioned, or part of any such road or highway, under such conditions (if any) as to them may appear desirable. Provided also, that the owner of a locomotive used contrary to the provisions of subsection two of this section shall not be deemed guilty of an offence under this section if he proves to the satisfaction of the court having cognisance of the case that such locomotive was constructed before the passing of this Act, and that the tires of the wheels thereof are not less than nine inches in width.

29. *Amendment of 28 & 29 Vict. c. 83, sec. 3.] The paragraph numbered "secondly" of section three of the Locomotive Act, 1865, is hereby repealed, so far as relates to England, and in lieu thereof the following paragraph is hereby substituted; namely,*

*"Secondly one of such persons, while the locomotive is in motion, shall precede by at least twenty yards the locomotive on foot, and shall in case of need assist horses, and carriages drawn by horses, passing the same" (o).*

30. *Steam locomotives to be constructed so as to consume their smoke. Section eight of the Locomotive Act, 1861, [24 & 25 Vict. c. 70] is hereby repealed, so far as relates to England; and in lieu thereof, be it enacted that (p) every locomotive used on any turnpike road or highway shall be constructed on the principle of consuming its own smoke; and any person using any locomotive not so constructed, or not consuming, so far as practicable, its own smoke, shall be liable to a fine not exceeding five pounds for every day during which such locomotive is used on any such turnpike road or highway.*

31. *Power to local authorities to make orders as to hours during which locomotives may pass over roads. Section eight of the Locomotives Act, 1865, [28 & 29 Vict. c. 83] is hereby repealed, so far as relates to England; and in lieu thereof, be it enacted that the mayor, aldermen, and commons in the city of London, and the Metropolitan Board of Works in the metropolis, exclusive of the city of London, and the council of any borough which has a separate court of quarter sessions, and the county authority of any county, may make byelaws as to the hours during which locomotives are not to pass over the turnpike roads or highways situate within the areas respectively above-mentioned, the hours being in all cases consecutive hours and no more than eight out of the twenty-four, and for regulating the use of locomotives upon any highway, or preventing such use upon every bridge where such authority is satisfied that such use would be attended with danger to the public; and any person in charge of a locomotive acting contrary to such byelaws shall be liable to a fine not exceeding five pounds (q).*

32. *Power of county authority to license locomotives.] A county authority may from time to time make, alter, and repeal byelaws for granting annual*

(o) This section is repealed by the Locomotives Act, 1898, sect. 18 and Sched., *post*, p. 271.

(p) Part in italics is repealed by S. L. R. Acts, 1894, 1898.

(q) Repealed by Locomotives Act, 1898, sect. 18, and Sched., *post*, p. 271.

*licenses to locomotives used within their county, and the fee (not exceeding ten pounds) to be paid in respect of each license ; and the owner of any locomotive for which a license is required under any byelaw so made who uses or permits the same to be used in contravention of any such byelaw shall be liable to a fine not exceeding forty shillings for every day on which the same is so used.*

*All fees received under this section shall be carried to and applied as part of the county rate.*

*This section shall not apply to any locomotive used solely for agricultural purposes (r).*

**33. Duration of Part II. of Act.** This part of this Act shall remain in force so long only as the Locomotives Act, 1865, [28 & 29 Vict. c. 83] continues in force.

### PART III

#### *Procedure and Definitions.*

**34. Confirmation of provisional order.]** It shall be lawful for the Local Government Board to submit any provisional order made by them under this Act to Parliament for confirmation, and without such confirmation a provisional order shall not be of any validity.

**35. Confirmation of byelaws.]** A byelaw made under this Act, and any alteration made therein and any repeal of a byelaw, shall not be of any validity until it has been submitted to and confirmed by the Local Government Board.

A byelaw made under this Act shall not, nor shall any alteration therein or addition thereto or repeal thereof, be confirmed until the expiration of one month after notice of the intention to apply for confirmation of the same has been given by the authority making the same in one or more local newspapers circulating in their county or district.

**36. Recovery of penalties and expenses.]** All offences, fines, and expenses under this Act, or any byelaw made in pursuance of this Act, may be prosecuted, enforced, and recovered before a court of summary jurisdiction in manner provided by the Summary Jurisdiction Acts.

The expression "the Summary Jurisdiction Acts" means the Act of the session of the eleventh and twelfth years of the reign of Her present Majesty, chapter forty-three, intituled "An Act to facilitate the performance of the duties of justices of the peace out of sessions within England and Wales with respect to summary convictions and orders," inclusive of any Acts amending the same.

The expression "court of summary jurisdiction" means and includes any justice or justices of the peace, metropolitan police magistrate, stipendiary or other magistrate, or officer, by whatever name called, to whom jurisdiction is given by the Summary Jurisdiction Acts: Provided that the court, when hearing and determining an information or complaint under this Act, shall be constituted either of two or more justices of the peace in petty sessions, sitting at a place appointed for holding petty session, or of some magistrate or officer sitting alone or with others at some court or other place appointed for the administration of justice, and for the time being empowered by law to do alone any act authorised to be done by more than one justice of the peace.

(r) Repealed by Locomotives Act, 1898, sect. 18. and Sched., *post*, p. 271.

37. (s) *Form of appeal to quarter sessions.*] If any party thinks himself aggrieved by any conviction or order made by a court of summary jurisdiction on determining any information or complaint under this Act, the party so aggrieved may appeal therefrom, *subject to the conditions and regulations following :*

- (1) *The appeal shall be made to the next practicable court of quarter sessions for the county or place where the decision appealed from was given holden not less than twenty-one days after the decision of the court from which the appeal is made ; and*
- (2) *The appellant shall, within ten days after the pronouncing by the court of the decision appealed from, give notice to the other party and to the court of summary jurisdiction of his intention to appeal and of the ground thereof ; such notice of appeal shall be in writing signed by the person or persons giving the same, or by his, her, or their solicitor on his, her, or their behalf ; and*
- (3) *The appellant shall, within three days after such notice, enter into a recognisance before a justice of the peace, with two sufficient sureties, conditioned personally to try such appeal, and to abide the judgment of the court thereon and to pay such costs as may be awarded by the court, or give such other security by deposit of money or otherwise as the justice may allow ; and*
- (4) *Where the appellant is in custody the justice may, if he think fit, on the appellant entering into such recognisance or giving such other security as aforesaid, release him from custody :*
- (5) *The court of appeal may adjourn the appeal, and upon the hearing thereof they may confirm, reverse, or modify the decision of the court of summary jurisdiction, or remit the matter to the court of summary jurisdiction with the opinion of the court of appeal thereon, or make such other order in the matter as the court thinks just, and if the matter be remitted to the court of summary jurisdiction the said last-mentioned court shall thereupon re-hear and decide the information or complaint in accordance with the opinion of the said court of appeal. The court of appeal may also make such order as to costs to be paid by either party as the court thinks just.*

38. *Interpretation.*] In this Act—

“County” has the same meaning as it has in the Highway Acts, 1862 and 1864, except that every liberty not being assessable to the county rate of the county or counties within which it is locally situate shall, for the purposes of this Act other than those relating to the formation and alteration of highway districts, and the transfer of the powers of a highway board, be deemed to be a separate county :

“County authority” means the justices of a county in general or quarter sessions assembled :

“Borough” means any place for the time being subject to the Act of the session of the fifth and sixth years of the reign of King William the Fourth, chapter seventy-six, intituled “An Act to provide for the regulation of municipal corporations in England and Wales,” and the Acts amending the same :

“Highway district” means a district constituted in pursuance of the Highway Act, 1862, and the Highway Act, 1864, or one of such Acts :

“Highway board” means the highway board having jurisdiction within a highway district :

(s) Words in italics repealed by S. J. A., 1884.

- "Highway parish" means a parish or place included or capable of being included in a highway district in pursuance of the Highway Acts, 1862 and 1864, or one of such Acts :
- "Highway authority" means as respects an urban sanitary district the urban sanitary authority, and as respects a highway district the highway board, and as respects a highway parish the surveyor or surveyors or other officers performing similar duties :
- "Rural sanitary district" and "rural sanitary authority" mean respectively the districts and authorities declared to be rural sanitary districts and authorities by the Public Health Act, 1875 :
- "Urban sanitary district" and "urban sanitary authority" mean respectively the districts and authorities declared to be urban sanitary districts and authorities by the Public Health Act, 1875, except that for the purposes of this Act no borough having a separate court of quarter sessions, and no part of any such borough, shall be deemed to be or to be included in any such district, and where part of a parish is included in such district for the purpose only of the repairs of the highways such part shall be deemed to be included in the district for the purposes of this Act :
- "The metropolis" means the parishes and places mentioned in the Schedules A., B., and C., annexed to the Metropolis Management Act, 1855, and any parish to which such Act may be extended by Order in Council in manner in the said Act provided ; also the city of London and the liberties of the said city :
- "Quarter sessions" includes general sessions :
- "Petty sessional division" means any division for the holding a special sessions formed or to be formed under the provisions of the Act of the ninth year of the reign of His late Majesty King George the Fourth, chapter forty-three, or any Act amending the same ; also any division of a county, or of a riding, division, parts, or liberty of a county, having a separate commission of the peace, in and for which petty sessions or special sessions are usually held, whether in one or more place or places, in accordance with any custom, or otherwise than under the said last-mentioned Act ; but does not include any city, borough, town corporate, or district constituted a petty sessional division by the Act of the session of the twelfth and thirteenth years of the reign of Her present Majesty, chapter eighteen, intituled "An Act for the holding of petty sessions of the peace in boroughs, and for providing places for the holding of such petty session in counties and boroughs" :
- "Locomotive" means a locomotive propelled by steam or by other than animal power :
- "Person" includes a body of persons corporate or unincorporate.

## THE LOCOMOTIVES ON HIGHWAYS ACT, 1896.

(59 & 60 VICT. c. 36.)

### 1. *Exemption of light locomotives from certain statutory provisions.*]

(1) The enactments mentioned in the Schedule to this Act, and any other enactment restricting the use of locomotives on highways and contained in any public general or local and personal Act in force at the passing of this Act, shall not apply to any vehicle propelled by mechanical power if it is under three tons in weight, unladen, and is not used for the purpose

of drawing more than one vehicle (such vehicle with its locomotive not to exceed in weight unladen four tons), and is so constructed that no smoke or visible vapour is emitted therefrom except from any temporary or accidental cause; and vehicles so exempted, whether locomotives or drawn by locomotives, are in this Act referred to as light locomotives.

Provided that—

- (a) the council of any county or county borough shall have power to make byelaws preventing or restricting the use of such locomotives upon any bridge within their area, where such council are satisfied that such use would be attended with damage to the bridge or danger to the public;
- (b) a light locomotive shall be deemed to be a carriage within the meaning of any Act of Parliament, whether public general or local, and of any rule regulation, or byelaw, made under any Act of Parliament, and, if used as a carriage of any particular class, shall be deemed to be a carriage of that class, and the law relating to carriages of that class shall apply accordingly.

(2) *In calculating for the purposes of this Act the weight of a vehicle unladen, the weight of any water, fuel, or accumulators, used for the purpose of propulsion, shall not be included (t).*

2. *Regulation as to lights.*] During the period between one hour after sunset and one hour before sunrise, the person in charge of a light locomotive shall carry attached thereto a lamp so constructed and placed as to exhibit a light in accordance with the regulations to be made by the Local Government Board.

3. *Locomotives to carry a bell.*] Every light locomotive shall carry a bell or other instrument capable of giving audible and sufficient warning of the approach or position of the carriage.

4. *Rate of speed* [repealed by Motor Car Act, 1903.]

5. *Use of Petroleum, etc.* 34 & 35 Vict. c. 105; 42 & 43 Vict. c. 47; 44 & 45 Vict. c. 67.] The keeping and use of petroleum or of any other inflammable liquid or fuel for the purpose of light locomotives shall be subject to regulations made by a Secretary of State, and regulations so made shall have effect notwithstanding anything in the Petroleum Acts, 1871 to 1881.

6. *Local Government Board regulations.*] (1) The Local Government Board may make regulations with respect to the use of light locomotives on highways, and their construction, and the conditions under which they may be used.

(2) Regulations under this section may, if the Local Government Board deem it necessary, be of a local nature and limited in their application to a particular area, and may, on the application of any local authority, prohibit or restrict the use of locomotives for purposes of traction in crowded streets, or in other places where such use may be attended with danger to the public.

All regulations under this section shall have full effect notwithstanding anything in any other Act, whether general or local, or any byelaws or regulations made thereunder.

Every regulation purporting to be made in pursuance of this section shall be forthwith laid before both Houses of Parliament.

(t) Repealed by Roads Act, 1920, s. 7, and 3rd Schedule.

7. *Penalties.*] A breach of any byelaw or regulation made under this Act, or of any provision of this Act, may, on summary conviction, be punished by a fine not exceeding ten pounds.

8. *Excise duty on certain locomotives (u).*]

9. *Construction of wheels of locomotives on roads.*] The requirements of subsection (4) of section twenty-eight of the Highways and Locomotives Act, 1878, may be from time to time varied by order of the Local Government Board.

#### SCHEDULE

##### ENACTMENTS WHICH ARE NOT TO APPLY TO LIGHT LOCOMOTIVES

The Locomotives Act, 1861 (24 & 25 Vict. c. 70), except so much of section one as relates to tolls on locomotives, and sections seven and thirteen.

Section forty-one of the Thames Embankment Act, 1862 (25 & 26 Vict. c. 93).

The Locomotives Act, 1865 (28 & 29 Vict. c. 83).

The Locomotives Amendment (Scotland) Act, 1878 (41 & 42 Vict. c. 58).

Part II. of the Highways and Locomotives (Amendment) Act, 1878 (41 & 42 Vict. c. 77).

Section six of the Public Health (Ireland) Amendment Act, 1879 (42 & 43 Vict. c. 57).

#### LOCOMOTIVES ACT, 1898

61 & 62 VICT. c. 29

(1898, August 2 [R. Assent])

*AN ACT to amend the Law with respect to the use of Locomotives on Highways, and with respect to extraordinary Traffic.*

BE it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same as follows:—

1. *Provisions as to the weight carried by waggons.*] (1) The council of a municipal borough as regards any highway situated in the borough, and the county council as regards any highway situated in their county but not in a borough, may permit any waggons drawn or propelled by a locomotive on the highway to carry weights in excess of those mentioned in section four of the Locomotive Act, 1861.

(2) If any person without such permission uses any waggon drawn or propelled by a locomotive on any highway to carry weights in excess of those mentioned in section four of the Locomotive Act, 1861, as amended by this Act, or, being the owner of the waggon, permits it so to be used, that person shall be liable for each offence, on summary conviction, to a fine not exceeding ten pounds.

(3) The proviso to section four of the Locomotive Act, 1861, is hereby repealed, and in lieu thereof it is enacted as follows:—

Provided that the regulation of weight herein mentioned shall not extend to any waggon carrying only one block, plate, cable, roll, vessel of stone or metal, or other single article, being of greater weight than sixteen tons, but the fellics, tires, or shoes of such waggon shall not be less than eight inches in breadth, and any damage arising

(u) Repealed by Finance Act, 1920, 4th Sched.

from the user of any such waggon shall be deemed to be damage caused by excessive weight within the meaning of section twenty-three of the Highways and Locomotives Amendment Act, 1878, as amended by this Act.

2. *Weight of waggons to be affixed thereon.*] The weight unloaded of every waggon drawn or propelled by a locomotive shall be conspicuously and legibly affixed thereon, and every owner not having affixed such weight shall be liable for each offence, on summary conviction, to a fine not exceeding five pounds, and any owner who shall fraudulently affix thereon any incorrect weight shall be liable for each offence, on summary conviction, to a fine not exceeding ten pounds.

3. *Limit to number of waggons.*] (1) A locomotive shall not be used on any highway to draw more than three loaded waggons (exclusive of any waggon solely used for carrying water for the locomotive) without the consent, so far as regards highways situated in a municipal borough, of the council of the borough, and, so far as regards highways not so situated, of the county council.

(2) If any person uses a locomotive in contravention of this section, or being an owner of a locomotive permits it to be so used, that person shall be liable for each offence, on summary conviction, to a fine not exceeding ten pounds.

4. *Erection and use of weighing machines.*] (1) Road authorities shall have power to erect in their districts machines for weighing locomotives and loaded waggons drawn by them, and shall have power by their servants to require the persons in charge of such locomotives and waggons to proceed thither for the purpose of having such locomotives and waggons weighed: Provided that the road authority making such requirement shall pay for any loss caused by the delay if the weight should be found to be within the limits authorised by law, and that any person in charge of a locomotive who refuses or neglects to comply with any such requirement shall be liable for each offence, on summary conviction, to a fine not exceeding ten pounds.

(2) Where a road authority and the engine owner fail to agree as to the amount of compensation to be paid under this section, the difference between them shall be settled by arbitration under the Arbitration Act, 1889.

Where a road authority weighs locomotives and waggons under this section, a certificate of weight shall be given which shall exempt such locomotives and waggons from being weighed during the continuance of that journey.

(3) For the purposes of this section the council of any county borough and any district council may borrow under and subject to the provision of the Public Health Act, 1875.

5. *Regulations for locomotives passing on highways.*] (1) When a locomotive is passing on any highway—

(a) two persons shall be employed in driving or attending to the locomotive; and

(b) in the case of any locomotive not being a steam roller another person shall be employed to accompany the locomotive in such a manner as to be able to give assistance to any person with horses or carriages drawn by horses meeting or overtaking the locomotive, and shall give such assistance when required; and

- (c) when a locomotive is drawing more than three waggons, another person shall be employed for the purpose of attending to the waggons :

Provided that it shall not be necessary in the case of two locomotive plough engines (including their necessary gear) closely following one another, to employ more than five persons in all under the foregoing enactment, but one of these persons shall be employed to accompany the engines and give assistance in manner thereby required.

(2) So long as the fires of a locomotive are alight, or the locomotive contains in itself sufficient motive power to move it, one person shall remain in attendance whilst it is on any highway although it is stationary.

(3) The lights required to be carried on a locomotive, whether stationary or passing on any highway, shall be carried between the hours of one hour after sunset and one hour before sunrise during the six months beginning the first day of April in any year, and between sunset and sunrise during the six months beginning the first day of October in any year, and there shall be carried in addition during those hours an efficient red light on the rear of the locomotive, or if it is drawing waggons on the rear of the last waggon, fixed in such a manner as to be conspicuous.

(4) Every light carried on a locomotive, or on a waggon drawn by a locomotive, shall be fitted with such shutters or other contrivances as will enable the light to be temporarily screened in an effective manner.

(5) If any of the provisions of this section are not complied with in the case of any locomotive, the owner of the locomotive shall be liable for each offence, on summary conviction, to a fine not exceeding ten pounds.

6. *Restriction of locomotive traffic by byelaw.*] (1) The council of a county and of any borough containing, according to the census of one thousand eight hundred and eighty-one, a population of ten thousand or upwards, may by byelaw—

- (a) prohibit or restrict the use of locomotives on any specified highway in their county or borough on account of the highway being crowded or unfitted for locomotive traffic, or of the inconvenience caused to inhabitants, or of any other reasonable cause ; and
- (b) regulate the use of locomotives and of waggons drawn by locomotives on any highway ; and
- (c) prohibit or restrict the use of a locomotive on any specified bridge in their county or borough, if they are satisfied that such bridge is unsuited for locomotive traffic, or that such use would be attended with damage to the bridge or danger to the public.

Provided that the council of any such county or borough may, where their byelaw prohibits the use of locomotives on any highway, give special authority for the use of a locomotive on the highway, if in any case it appears necessary for the purpose of the delivery of goods or for any other particular purpose. Provided also that the council of any such county or borough shall not give any such special authority for the use of a locomotive on any bridge except with consent of the person liable to the repair of such bridge, and the council of any such county or borough may with such consent give such special authority subject to payment being made by the person applying for such special authority to the person liable to the repair of such bridge of the cost of temporarily strengthening such bridge on each occasion of such use.

(2) If any person in charge of a locomotive acts in contravention of any byelaw under this section, and without any such special authority, he shall be liable for each offence, on summary conviction, to a fine not exceeding five pounds.

(3) Any byelaw made under this section shall be subject to confirmation by the Local Government Board, and sections one hundred and eighty-four, one hundred and eighty-five, and one hundred and eighty-six of the Public Health Act, 1875 (which relate to the confirmation, printing, and evidence of byelaws), shall accordingly apply to any byelaws under this section as they apply to byelaws made by a local authority under that Act. Provided that, in addition to the notice of intention to apply for confirmation of any byelaw which is required by section one hundred and eighty-four of the said Act, notice of such intention shall in the case of any byelaw made under this section be given in the London Gazette one month at least before making the application.

(4) The Local Government Board in connexion with the confirmation of any byelaw under this section shall have all proper regard to the necessities of through locomotive traffic, and of persons who own or use locomotives, and shall consider any representations made to them by any local authority concerned, and shall also have regard to the advantage of byelaws being uniform in adjoining areas except where uniformity is, in their opinion, made inexpedient by difference in the circumstances of the areas.

(5) The mayor, aldermen, and commons of the city of London may make byelaws under this section as to the city of London in the same manner as the council of a borough.

(6) For the purpose of byelaws under this section, a borough, the council of which may make such byelaws, shall not form part of the administrative county in which it is situate.

*7. Appeal against restrictions on passing over bridges. 24 & 25 Vict. c. 70.]* (1) Where the owner of a locomotive is aggrieved by any restriction or prohibition placed, either before or after the passing of this Act, on the passing of locomotives over any bridge, either under section six of the Locomotive Act, 1861, or under any byelaw made under this Act, or any enactment repealed by this Act, that owner may appeal to the Local Government Board, and that Board if they consider that the bridge is sufficient to bear the weight of locomotives, and that there is no other reasonable cause for imposing the restriction or prohibition, may order the restriction or prohibition to be removed, or, if they consider that it may reasonably be varied in any respect, to be varied.

(2) The authority by whom a restriction or prohibition has been imposed shall comply within a time to be specified in the order with any order of the Local Government Board made under this section.

(3) The Local Government Board may determine any appeal under this section either as arbitrators or otherwise at their option, and, where they determine any such appeal as arbitrators, section sixty-three of the Local Government Act, 1888, as amended by the Local Government (Determination of Differences) Act, 1896, shall apply for the purpose.

(4) An order of the Local Government Board under this section with regard to any bridge shall not prevent the imposition of any restriction or prohibition with regard to the bridge at a future time, if the authority having power to impose the restriction or prohibition consider that it is necessary to do so, having regard to any change in the circumstances

of the bridge or the traffic, but the imposition of any such restriction or prohibition shall be subject to appeal under this section.

(5) The Local Government Board may refuse to consider any appeal under this section with regard to any bridge if the question raised by the appeal has been already considered by them either on the confirmation of a byelaw or under a former appeal.

(6) In the case of any bridge which a railway company is liable to repair, the Board of Trade shall be substituted for the Local Government Board, and this section shall be read and construed accordingly.

8. *Locomotives not to meet on a bridge.*] No locomotive shall be taken across any bridge so as to meet or pass any other locomotive upon such bridge, and any person who acts in contravention of this section shall be subject, on summary conviction, to a penalty not exceeding five pounds for every offence.

9. *(x) Licences for Locomotives.*]

10. *(x) Agricultural locomotives and steam rollers.*]

11. *(x) Penalty for forging licence or registration plate.*]

12. *Amendments as to proceedings for extraordinary traffic damage.*]

(1) Section twenty-three of the Highways and Locomotives (Amendment) Act, 1878 (which relates to the recovery of expenses of extraordinary traffic) shall be amended as follows:—

(a) Expenses under that section shall cease to be recoverable in a summary manner, but may be recovered if not exceeding two hundred and fifty pounds in the County Court, and if exceeding that sum in the High Court.

(b) Proceedings for the recovery of any expenses incurred after the passing of this Act shall be commenced within twelve months of the time at which the damage has been done, or where the damage is the consequence of any particular building contract, or work extending over a long period, shall be commenced not later than six months after the completion of the contract or work.

(c) There shall be substituted for the words “by whose order” the words “by or in consequence of whose order.”

(2) Nothing in this section shall affect the prosecution and determination of any proceedings which have been commenced before this Act shall come into operation.

13. *Power of owner of locomotive to exempt himself from fine on the conviction of the actual offender.*] (1) Where an offence under any Act or byelaw relating to locomotives on highways, for which the owner of a locomotive or waggon is liable to a penalty, has, in fact, been committed by some servant, workman, or other person, that servant, workman, or other person shall be liable to the same penalty as if he were the owner.

(2) Where the owner is charged with any such offence, he shall be entitled upon information only laid by him to have any other person whom he charges as the actual offender brought before the court at the time appointed for hearing the charge, and if, after the commission of the offence has been proved, the owner proves to the satisfaction of the court that he had used due diligence to enforce the execution of the Act,

(x) Repealed by Roads Act, 1920, 3rd Schedule.

and that the other person had committed the offence in question without the owner's knowledge, consent, or connivance, that other person shall be summarily convicted of the offence, and the owner shall be exempt from any fine.

14. *Action of county councils.*] For the purposes of this Act the council of a county or borough may act through their surveyor or other authorised officer.

15. *Inquiries by inspectors of Local Government Board.*] (1) The Local Government Board may direct any inquiries to be held by their inspectors which they may deem necessary in regard to the exercise of any of their powers under this Act, and the Board and their inspectors shall for the purposes of any such inquiry have the same powers as they respectively have for the purposes of an inquiry under the Public Health Act, 1875.

(2) The expenses incurred by the Local Government Board in respect of inquiries under this Act shall be paid by such authorities and persons, and out of such funds and rates as the Board may by order direct, and the Board may satisfy the amount of the expenses so incurred, and any sum so certified and directed by the Board to be paid by any authority or person shall be a debt from that authority or person to the Crown.

(3) Such expenses may include the salary of any inspector or officer of the Board engaged in the inquiry, not exceeding three guineas a day.

16. *For the protection of the Menai Bridge.*] No locomotive to which this Act applies shall be driven over the Menai Bridge when prohibited by notice exhibited thereon by the authority of the Commissioners of Her Majesty's Works and Public Buildings, and nothing in section seven of this Act shall have any application to such bridge.

If any person in charge of a locomotive acts in contravention of this section, he shall be liable for each offence, on summary conviction, to a fine not exceeding five pounds.

17. *Interpretation and saving.*] (1) In this Act, unless the context otherwise requires,—

The expression "county" means an administrative county, and includes a county borough;

The expressions "council of a county" and "county council" include the council of a county borough;

In the case of a county borough the expression "chairman" includes the mayor, and the expression "county fund" includes borough fund;

The expression "locomotive" means a locomotive propelled by steam or other than animal power;

The expression "waggon" includes any truck, cart, carriage, or other vehicle;

The expression "agricultural locomotive" includes—

(a) any locomotive used solely for threshing, ploughing, or any other agricultural purpose; and

(b) any locomotive, the property of one or more owners or occupiers of agricultural land, employed solely for the purposes of their farms, and not let out on hire (y).

(y) Repealed by Roads Act, 1920, 3rd Schedule.

(2) Nothing in this Act shall affect locomotives within the meaning of the Locomotives on Highways Act, 1896.

(3) The mayor, aldermen, and commons of the city of London shall have the same powers with regard to the licensing and registration of locomotives in the city of London as the council of a county have in their county, and shall apply as part of their income any fees or other money received in connection with such powers.

**18. Repeal.]** (1) The Acts mentioned in the schedule to this Act are hereby repealed to the extent mentioned in the third column of that schedule.

(2) Provided that such repeal shall not affect any byelaws made under any enactment mentioned in the said schedule, so far as the same relates to preventing the use of locomotives upon bridges, or for a period of twelve months from the passing of this Act any other byelaws made under any such enactment, except so far as the same may be repealed or altered by byelaws made under this Act.

(3) *Nothing in this Act shall affect or derogate from the provisions of any local Act dealing with the licensing of locomotives (whatever the payments in respect of the licence may be) or otherwise relating to locomotives in any borough or other area (z).*

**19. Short title.]** This Act may be cited as the Locomotives Act, 1898.

**20. Application of Act.]** This Act shall not apply to Scotland or Ireland.

**21. Commencement of Act.]** This Act shall not, except so far as regards the making and confirming of byelaws hereunder, come into operation until the first of January, one thousand eight hundred and ninety-nine.

## SCHEDULE

*Repeals*

Session and Chapter.	Short Title.	Extent of Repeal.
24 & 25 Vict. c. 70.	The Locomotive Act, 1861.	Section six, from "And in case" to the end of the section.
28 & 29 Vict. c. 83.	The Locomotives Act, 1865.	Section three, the paragraph commencing with the word "Firstly" and ending with the word "carriages" and from "but it shall be lawful for such owner" to the end of the section. Section three, the words "between the hours of one hour after sunset and one hour before sunrise."
41 & 42 Vict. c. 77.	The Highways and Locomotives (Amendment) Act, 1878.	Sections twenty-nine, thirty-one and thirty-two.

(z) Repealed by Roads Act, 1920, 3rd Schedule.

MOTOR CAR ACT, 1903 (*a*)

(3 EDW. 7, c. 36)

*AN ACT to amend the Locomotives on Highways Act, 1896.*

14th August, 1903.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. *Reckless driving.*] (1) If any person drives a motor car on a public highway recklessly or negligently, or at a speed or in a manner which is dangerous to the public, having regard to all the circumstances of the case, including the nature, condition, and use of the highway, and to the amount of traffic which actually is at the time, or which might reasonably be expected to be, on the highway, that person shall be guilty of an offence under this Act.

(2) Any police constable may apprehend without warrant the driver of any car who commits an offence under this section within his view, if he refuses to give his name and address or produce his licence on demand, or if the motor car does not bear the mark or marks of identification.

(3) If the driver of any car who commits an offence under this section refuses to give his name or address, or gives a false name or address, he shall be guilty of an offence under this Act, and it shall be the duty of the owner of the car, if required, to give any information which it is within his power to give, and which may lead to the identification and apprehension of the driver, and if the owner fails to do so he also shall be guilty of an offence under this Act.

2. *Registration of motor cars (b).]*

3. *Licensing of drivers (c).]* (1) A person shall not drive a motor car on a public highway unless he is licensed for the purpose under this section, and a person shall not employ any person who is not so licensed to drive a motor car.

If any person acts in contravention of this provision he shall be guilty of an offence under this Act.

(2) The council of a county or county borough shall grant a licence to drive a motor car to any person applying for it who resides in that county or county borough on payment of a fee of five shillings (*d*), unless the applicant is disqualified under the provisions of this Act.

(3) A licence shall remain in force for a period of twelve months from the date on which it is granted, but shall be renewable, and the same provisions shall apply with respect to the renewal of the licence as apply with respect to the grant of the licence.

(4) A licence must be produced by any person driving a motor car when demanded by a police constable. If any person fails so to produce his licence, he shall be liable, on summary conviction, in respect of each offence to a fine not exceeding five pounds.

(*a*) As amended by Roads Act, 1920.

(*b*) Repealed Roads Act, 1920, Sched. III.

(*c*) As to the modification of this section in relation to foreign cars temporarily imported, see Chapter X.

(*d*) See Roads Act, 1920, sect. 7 (7).

(5) Any person under the age of seventeen years shall be disqualified for obtaining a licence (except that a licence limited to driving motor cycles may be granted to a person over the age of fourteen years), and any person who already holds a licence shall be disqualified for obtaining another licence while the licence so held by him is in force.

4. *Suspension of licence and disqualification.*] (1) Any court before whom a person is convicted of an offence under this Act, or of any offence in connection with the driving of a motor car, other than a first or second offence, consisting solely of exceeding any limit of speed fixed under this Act—

- (a) may, if the person convicted holds any licence under this Act, suspend that licence for such time as the court thinks fit, and, if the court thinks fit, also declare the person convicted disqualified for obtaining a licence for such further time after the expiration of the licence as the court thinks fit; and
- (b) may, if the person convicted does not hold any licence under this Act, declare him disqualified for obtaining a licence for such time as the courts thinks fit; and
- (c) if the person convicted holds any licence under this Act, *may* cause particulars of the conviction and of any order of the court made under this section, to be endorsed upon any licence held by him, and shall *where any particulars are so endorsed* cause a copy of those particulars to be sent to the council by whom any licence so endorsed has been granted (e).

(2) Any person so convicted, if he holds any licence under this Act, shall, *if so required by the convicting court*, produce the licence within a reasonable time for the purposes of endorsement, and if he fails to do so shall be guilty of an offence under this Act (e).

(3) A licence so suspended by the court shall during the term of suspension be of no effect, and a person whose licence is suspended or who is declared by the court to be disqualified for obtaining a licence shall during the period of suspension or disqualification be disqualified for obtaining a licence.

(4) Any person who is by virtue of an order of the court under this section disqualified for obtaining a licence may appeal against the order in the same manner as a person may appeal who is ordered to be imprisoned without the option of a fine; and the court may, if they think fit, pending the appeal, defer the operation of the order.

(5) If any person, who under the provisions of this Act is disqualified for obtaining a licence, applies for or obtains a licence while he is so disqualified, or if any person whose licence has been endorsed applies for or obtains a licence without giving particulars of the endorsement, that person shall be guilty of an offence under this Act, and any licence so obtained shall be of no effect.

5. *Forgery, &c. of identification mark or licence.* (f)]

6. *Duty to stop in case of accident.*] A person driving a motor car shall, in any case, if an accident occurs to any person, whether on foot, on horse-back, or in a vehicle, or to any horse or vehicle in charge of any person,

(e) As amended by Roads Act, 1920, sect. 7 (2).

(f) Repealed by Roads Act, 1920, Sched. III.

owing to the presence of the motor car on the road, stop, and if required, give his name and address, and also the name and address of the owner and the registration mark or number of the car; and if any person knowingly acts in contravention of this section, he shall be liable, on summary conviction, in respect of the first offence to a fine not exceeding ten pounds, and in respect of the second offence to a fine not exceeding twenty pounds, and in respect of any subsequent offence to a fine not exceeding twenty pounds, or, in the discretion of the court, to a term of imprisonment not exceeding one month.

7. *Regulations by Local Government Board (g).* 59 & 60 *Vict. c. 36.*]

(1) The Local Government Board (g) may, under section six of the Locomotives on Highways Act, 1896 (in this Act referred to as the principal Act), make regulations—

(a) (h).

(b) with respect to the licences to be granted by the councils of counties or county boroughs under this Act, and in particular with respect to the register to be kept of those licences and the renewal of licences, and for providing special facilities for granting licences to persons not resident in the United Kingdom, and for communicating particulars thereof to adjoining and other county or county borough councils, and for making any particulars with respect to any persons whose licences are suspended or endorsed available for use by the police, and for preventing a person holding more than one licence.

(2) (i) The councils of counties and county boroughs shall comply with any regulations so made by the Local Government Board (g), and may if authorised by those regulations and in accordance therewith charge in respect of the issue of a new licence in the place of a licence lost or defaced such fee not exceeding one shilling as may be prescribed by the regulations.

8. *Power to prohibit motor cars on special roads.*](k). The Minister may, by order on the application of any county council after holding a public inquiry, prohibit or restrict, subject to such exceptions or conditions as to occasional user or otherwise as may be specified in the order, the driving of vehicles of any specified class on any specified highway within the area of the council in any case in which it appears to him, as the result of the inquiry, to be proved that a vehicle of that class cannot be used on that highway without endangering the safety of the vehicle or the persons therein or of other traffic using the highway, or that the highway is unsuitable for use by a vehicle of that class:

Provided that—

(a) the Minister may at any time, after giving notice in that behalf to the county council on whose application the order was made, and after considering any objections made by that council, but without holding any public inquiry, revoke, vary, or amend any order made under this subsection; and

(g) Now Ministry of Transport.

(h) Repealed by Roads Act, 1920, Sched. III.

(i) With the omission of words repealed by Roads Act, 1920, Sched. III.

(k) Original section wholly repealed by Roads Act, 1920, Sched. III, and new section substituted by *ibid.* s. 7 (4).

- (b) every order made under this subsection shall require the authority responsible for the maintenance of the highway to which the order relates to give in the prescribed manner notice of the fact that an order has been made under this subsection with respect to that highway.

The provisions contained in the Second Schedule to the Roads Act, 1920, shall have effect with respect to applications and inquiries under this subsection.

9. *Rate of Speed.*] (1) Section four of the principal Act (which relates to the rate of speed of motor cars) is hereby repealed, but a person shall not, under any circumstances, drive a motor car on a public highway at a speed exceeding twenty miles per hour, and, within any limits or place referred to in regulations made by the Local Government Board (l) with a view to the safety of the public on the application of the local authority of the area in which the limits or place are situate, a person shall not drive a motor car at a speed exceeding ten miles per hour.

If any person acts in contravention of this provision he shall be liable, on summary conviction, in respect of the first offence to a fine not exceeding ten pounds, and in respect of the second offence to a fine not exceeding twenty pounds, and in respect of any subsequent offence to a fine not exceeding fifty pounds, but a person shall not be convicted under this provision for exceeding the limit of speed of twenty miles merely on the opinion of one witness as to the rate of speed.

(2) Where a person is prosecuted for an offence under this section, he shall not be convicted unless he is warned of the intended prosecution at the time the offence is committed, or unless notice of the intended prosecution is sent to him or to the owner of the car as entered on the register within such time after the offence is committed, not exceeding twenty-one days, as the court think reasonable.

(3) The Local Government Board (l) may, without any application from the local authority, after considering any objections which may be raised by the local authority, revoke or alter any regulation made by them under this section.

(4) For the purposes of this section the expression local authority means—

- (a) as respects the City of London, the mayor, aldermen, and commons of the City of London in common council assembled; and
- (b) as respects a municipal borough with a population of over ten thousand according to the last census taken before the passing of this Act, the council of the borough; and
- (c) as respects any other area, the county council.

10. *Erection of notice boards.*] (1) Local authorities within the meaning of the last preceding section shall give public notice of any regulation of the Local Government Board (l) made in pursuance of this Act prohibiting or restricting the use of motor cars (m) on any highway or part of a highway, or limiting the speed of motor cars within any limits or place, and for the purpose of giving effect to any such regulation shall place notices in conspicuous places on or near the highway, part of a highway, limits, or place to which the regulation refers.

(l) Now Ministry of Transport.

(m) As to application, see Roads Act, 1920, s. 7 (1).

(2) Subject to regulations as to size and colours to be made by the Local Government Board (*n*), local authorities within the meaning of the last preceding section shall within their areas cause to be set up sign posts denoting dangerous corners, cross roads, and precipitous places, where such sign posts appear to them to be necessary.

**11. Penalties and legal proceedings.]** (1) A person guilty of an offence under this Act for which no special penalty is provided shall be liable on summary conviction in respect of each offence to a fine not exceeding twenty pounds, or in the case of a second or subsequent conviction to a fine not exceeding fifty pounds, or in the discretion of the court to imprisonment for a period not exceeding three months.

(2) Any person adjudged to pay a fine exceeding twenty shillings under this Act may appeal against the conviction in the same manner as he may appeal if ordered to be imprisoned without the option of a fine.

**12. Regulations as to maximum weight of cars.]** (1) The Local Government Board (*n*) by regulations made under section six of the principal Act may, as respects any class of vehicle mentioned in the regulations, increase the maximum weights of three tons and four tons mentioned in section one of that Act, subject to any conditions as to the use and construction of the vehicle which may be made by the regulations (*o*).

(2) The power of the Local Government Board (*n*) to make regulations under section six of the Locomotives on Highways Act, 1896, shall, as respects motor cars exceeding two tons in weight unladen, include a power to make regulations as to speed (*p*).

**13. Inland Revenue licences for motor car drivers.]** The definition of "male servant" in subsection three of section nineteen of the Revenue Act, 1869, as amended by section five of the Customs and Inland Revenue Act, 1876, shall be construed as if a person employed to drive a motor car were included in that definition.

**14. Local inquiries by Local Government Board (*n*).]** Subsections one and five of section eighty-seven of the Local Government Act, 1888 (which relates to local inquiries), shall apply for the purpose of the carrying out by the Local Government Board (*n*) of any of their duties under this Act.

**15. Saving of liability.]** Nothing in this Act shall affect any liability of the driver or owner of a motor car by virtue of any statute or at common law.

**16. Application to servants of the Crown.]** It is hereby declared that this Act and the principal Act apply to persons in the public service of the Crown.

**17. Protection of Menai Bridge.]** (1) A motor car shall not be driven on or over Menai Bridge except in accordance with regulations made by the Commissioners of Works.

(2) If any person acts in contravention of this section he shall be liable on summary conviction in respect of the first offence to a fine not exceeding ten pounds, and in respect of the second offence to a fine not exceeding twenty pounds, and in respect of any subsequent offence to a fine not exceeding fifty pounds.

(*n*) Now Ministry of Transport.

(*o*) See Roads Act, 1920, sect. 7 (6).

(*p*) See Roads Act, 1920, sect. 7 (5).

18. *Application to Scotland.*] In the application of this Act to Scotland—

- (1) a reference to the Secretary for Scotland shall be substituted for a reference to the Local Government Board; and
- (2) a reference to the council of a royal, parliamentary, or police burgh, containing within its boundaries, as ascertained, fixed, or determined for police purposes, a population according to the census for the time being last taken of or exceeding fifty thousand, shall be substituted for a reference to the council of a county borough, and every other burgh shall be deemed to form part of the county within which it is situate; and
- (3) the road authority of any county or of any royal, parliamentary, or police burgh shall be the local authority within the meaning of the provisions of this Act which relate to the rate of speed and the erection of danger boards; and
- (4) a reference to subsections one and three of section ninety-three of the Local Government (Scotland) Act, 1889, shall be substituted for a reference to subsections one and five of section eighty-seven of the Local Government Act, 1888; and
- (5) any fine under this Act shall be recoverable by imprisonment in terms of the Summary Jurisdiction Acts; and
- (6) any person convicted of an offence under this Act and ordered to be imprisoned without the option of a fine or adjudged to pay a fine exceeding ten pounds shall have a right of appeal against the conviction. Such appeal shall lie to the sheriff depute, and shall be heard summarily. Such appeal may be taken either immediately after the judgment appealed against has been pronounced or within seven days thereafter, and upon such appeal being taken the sentence (if any) shall be suspended until the appeal has been disposed of: Provided that the appellant shall, at the time of taking such appeal, lodge in the hands of the clerk of court a bond with sufficient cautioner or otherwise give security satisfactory to the court for appearing before the sheriff depute. The sheriff depute is hereby authorised and empowered on such appeal to hear evidence, whether led at the original hearing or not, and to reconsider the merits of the case and reverse or confirm in whole or in part the judgment appealed against, or give such new or different judgment as he in his discretion shall think fit; and save as provided by the Summary Prosecutions Appeals (Scotland) Act, 1875, his judgment shall be final and not subject to review; and
- (7) An appeal taken in terms of this Act by a person holding a licence against an order for suspension or disqualification shall be taken and disposed of as nearly as may be in the manner and subject to the conditions provided by the immediately preceding subsection.

19. *Application to Ireland.*] In the application of this Act to Ireland—

- (1) a reference to the Local Government Board for Ireland shall be substituted for a reference to the Local Government Board; and
- (2) Subsections one and three of article thirty-two of the Local Government (Application of Enactments) Order, 1898, shall be substituted for subsections one and five of section eighty-seven of the Local Government Act, 1888; and
- (3) Section twenty-three of the Summary Jurisdiction (Ireland) Act,

1851 (which gives a right of appeal), shall apply as respects convictions for offences under this Act as if any term of imprisonment without the option of a fine were substituted for a term of imprisonment exceeding one month; and

- (4) Sections one to four, inclusive, of the Criminal Evidence Act, 1898, shall extend to Ireland in the case of a person charged with any offence under this Act.

20. *Interpretation, commencement, and short title.*] (1) In this Act the expression "motor car" has the same meaning as the expression "light locomotive" has in the principal Act, as amended by this Act, except that, for the purpose of the provisions of this Act with respect to the registration of motor cars, the expression "motor car" shall not include a vehicle drawn by a motor car.

The provisions of this Act and of the principal Act shall apply in the case of a roadway to which the public are granted access in the same manner as they apply in the case of a public highway.

(2) This Act shall come into operation on the first day of January nineteen hundred and four.

(3) This Act may be cited as the Motor Car Act, 1903; and the Locomotives on Highways Act, 1896, and this Act may be cited together as the Motor Car Acts, 1896 and 1903.

21. *Duration of Act.*] This Act shall continue in force till the thirty-first day of December nineteen hundred and six and no longer, unless Parliament shall otherwise determine.

## STATUTORY RULES AND ORDERS, 1903, No. 998.

### LOCOMOTIVE, ENGLAND

#### MOTOR CARS

THE MOTOR CAR (REGISTRATION AND LICENSING) ORDER, 1903.

46,110. DATED NOVEMBER 19, 1903.

To the County Councils of the several Administrative Counties in England and Wales;—

To the Councils of the several County Boroughs in England and Wales;—

And to all others whom it may concern.

Whereas by Section 6 of the Locomotives on Highways Act, 1896 (herein-after referred to as "the Act of 1896"), it is enacted that—

"(1) The Local Government Board (g) may make regulations with respect to the use of light locomotives on highways, and their construction, and the conditions under which they may be used.

"(2) \* \* \* \* \*

"All regulations under this section shall have full effect notwithstanding anything in any other Act, whether general or local, or any byelaws or regulations made thereunder."

And whereas by Section 7 of the Act of 1896 it is enacted that—

"A breach of any \* \* \* regulation made under this Act, \* \* \* may, on summary conviction, be punished by a fine not exceeding ten pounds."

(g) Now Ministry of Transport.

And whereas by Section 2 of the Motor Car Act, 1903 (*r*) (herein-after referred to as "the Act of 1903"), it is enacted that—

"(1) Every motor car shall be registered with the council of a county or county borough, and every such council shall assign a separate number to every car registered with them.

"(2) A mark indicating the registered number of the car and the council with which the car is registered shall be fixed on the car or on a vehicle drawn by the car, or on both, in such manner as the council require in conformity with regulations of the Local Government Board (*s*) made under this Act.

"(3) A fee of twenty shillings shall be charged by the council of a county or county borough on the registration of a car, except in the case of motor cycles, for which the fee shall be five shillings.

"(4) If a car is used on a public highway without being registered, or if the mark to be fixed in accordance with this Act is not so fixed, \* \* \* \* \* the person driving the car shall be guilty of an offence under this Act, \* \* \* \* \*

"Provided that—

"(a) A person shall not be liable to a penalty under this section if he proves that he has had no reasonable opportunity of registering the car in accordance with this section, and that the car is being driven on a highway for the purpose of being so registered; and

"(b) The council of any county or county borough in which the business premises of any manufacturer of, or dealer in, motor cars are situated, may, on payment of such annual fee, not exceeding three pounds, as the council require, assign to that manufacturer or dealer a general identification mark which may be used for any car on trial after completion, or on trial by an intending purchaser, and a person shall not be liable to a penalty under this section while so using the car if the mark so assigned is fixed upon the car in the manner required by the council in accordance with regulations of the Local Government Board (*s*) made under this Act."

And whereas by Section 3 of the Act of 1903 it is enacted that—

"(2) The council of a county or county borough shall grant a licence to drive a motor car to any person applying for it who resides in that county or county borough on payment of a fee of five shillings, unless the applicant is disqualified under the provisions of this Act.

"(3) A licence shall remain in force for a period of twelve months from the date on which it is granted, but shall be renewable, and the same provisions shall apply with respect to the renewal of the licence as apply with respect to the grant of the licence.

\* \* \* \* \*

(*r*) Now repealed.

(*s*) Now Ministry of Transport.

“(5) Any person under the age of seventeen years shall be disqualified for obtaining a licence (except that a licence limited to driving motor cycles may be granted to a person over the age of fourteen years), and any person who already holds a licence shall be disqualified for obtaining another licence while the licence so held by him is in force.”

And whereas by Section 7 of the Act of 1903 it is enacted that—

“(1) The Local Government Board (*l*) may, under section six of the Locomotives on Highways Act, 1896, \* \* \* make regulations—

“(a) providing generally for facilitating the identification of motor cars, and in particular for determining, and regulating generally, the size, shape, and character of the identifying marks to be fixed under this Act, and the mode in which they are to be fixed and to be rendered easily distinguishable whether by night or by day, and with respect to the registration of cars, and the entry of particulars, including particulars of the ownership of the car, in the register, and the giving of those particulars, and for making any particulars contained in the register available for use by the police, and for making the registration of a car void if the regulations as to registration are not complied with; and (*u*)

“(b) with respect to the licences to be granted by the councils of counties or county boroughs under this Act, and in particular with respect to the register to be kept of those licences and the renewal of licences, and for providing special facilities for granting licences to persons not resident in the United Kingdom, and for communicating particulars thereof to adjoining and other county or county borough councils, and for making any particulars with respect to any persons whose licences are suspended or endorsed available for use by the police, and for preventing a person holding more than one licence.

“(2) The councils of counties and county boroughs shall comply with any regulations so made by the Local Government Board (*l*), and may if authorised by those regulations and in accordance therewith charge in respect of *the entry of particulars of the ownership of a car on change of ownership such fee, not exceeding ten shillings, as may be prescribed by the regulations, and in respect of* (*x*) the issue of a new licence in the place of a licence lost or defaced such fee not exceeding one shilling as may be prescribed by the regulations.”

Now therefore, in pursuance of the powers given to Us by the Act of 1896 and the Act of 1903, and by any other Statutes in that behalf, We, the Local Government Board (*l*), Do by this Our Order make the following Regulations, and Direct that the same shall have effect for

(*l*) Now Ministry of Transport.

(*u*) This subsection (*a*) is now repealed.

(*x*) Words in italics now repealed.

the purpose of bringing the Act of 1903 into operation and giving effect to that Act:—

## PART I

### *Registration of Motor Cars (y)*

## PART II

### *Licences*

Article XIV.—A person who desires to obtain the grant or renewal of a licence to drive a motor car or of a licence limited to driving motor cycles under the Act of 1903 shall apply to the Council of the County or County Borough in which he resides, and furnish them with the particulars set out in Form A. or Form B. in the Fifth Schedule to this Order as the case requires.

The fee of Five Shillings prescribed by the Act of 1903 shall be paid before the applicant is entitled to receive the licence or renewal.

Applications for the grant or renewal of a licence may be received and dealt with at any time within one month before the date on which the grant or renewal of the licence is to take effect.

Article XV.—The licence and renewal of a licence shall respectively be in the form set out for the purpose in the Sixth Schedule to this Order or in a form to the like effect.

Article XVI.—If any person applies to the Council of a County or County Borough for the grant of a licence, and the Council are satisfied that he has no residence in the United Kingdom, the Council shall, if the applicant is otherwise entitled, grant him a licence, notwithstanding that he is not resident within their County or County Borough.

Article XVII.—If a person to whom a licence has been granted by the Council of a County or County Borough satisfies that Council that his licence or any renewal of it has been lost or defaced, the Council shall, on payment of a fee of One Shilling, issue to him a duplicate licence, or renewal (including, in the case of a duplicate licence, any particulars endorsed or entered upon the original licence under the Act of 1903 or this Order), and the duplicate so issued shall have the same effect as the original licence or renewal, as the case may be.

Article XVIII.—The Council of every County or County Borough shall establish and keep a Register of Licences in the form set out in the Seventh Schedule to this Order, or in a form to the like effect.

Article XIX.—Any registering Council shall upon application being made to them by any other licensing authority under the Act of 1903, or by any police authority, or by any superior officer of police or constable authorised by such officer forthwith provide free of charge a copy of the particulars in their Register of Licences relating to any licence granted by them.

Upon receiving from any Court in pursuance of Section 4 of the Act

(y) This part was repealed by Road Vehicles (Registration & Licensing) Regulations, 1921.

of 1903 particulars of any conviction of the holder of a licence granted by the Council, and of the Order of the Court in the case, the Council shall cause a copy of such particulars and Order to be sent, free of charge, to the police authority for the area in which the holder of the licence resides.

### PART III

#### *Supplemental*

Article XX.—The clerk of the Council and any other officer authorised by the Council are respectively empowered to perform any duty or exercise any power of the Council for the purpose of carrying this Order into effect.

Article XXI.—The provisions of this Order shall apply in the case of a roadway to which the public are granted access in the same manner as they apply in the case of a public highway.

Except where the contrary intention appears, the expression “motor car” in this Order includes a motor cycle.

In calculating for the purpose of this Order the weight of a motor car or motor cycle unladen, the weight of any water, fuel, or accumulators used for the purpose of propulsion shall not be included.

The Interpretation Act, 1889, applies for the purpose of the interpretation of this Order as it applies for the purpose of the interpretation of an Act of Parliament.

Article XXII.—This Order may be cited as the Motor Car (Registration and Licensing) Order, 1903.

SCHEDULE I. (z)

SCHEDULE II. (z)

SCHEDULE III. (z)

SCHEDULE IV. (z)

(z) Repealed by Road Vehicles (Registration & Licensing) Regulations, 1921.

## SCHEDULE V.

## FORM A.

*\*Particulars to be given by Applicant for Licence.*

COUNTY [or COUNTY BOROUGH] of \_\_\_\_\_

1. Full name of applicant.	
2. Postal address of residence of applicant.	
3. Whether application is for licence to drive a motor car, or for licence limited to driving motor cycles.	
4. Whether applicant is less than seventeen years of age, or in the case of an application limited to driving motor cycles, whether he is less than fourteen years of age.	
5. Whether applicant is the holder of a licence, or has at any time previously been the holder of a licence.	
6. Particulars of any licence which the applicant holds or which he has previously held.	
7. Particulars of any endorsement on any licence which the applicant holds or which he has previously held.	
8. Whether applicant has at any time been disqualified for obtaining a licence. If so, particulars as to the Court by whom, the date on which, and the period for which the disqualification was imposed.	

Signature of Applicant \_\_\_\_\_

Date of Application \_\_\_\_\_

\* In the case of an application made before the 1st of January, 1904, the particulars under the first four heads only need be given.

## FORM B.

*Particulars to be given by Applicant for Renewal of Licence.*

\_\_\_\_\_  
COUNTY [or COUNTY BOROUGH] of \_\_\_\_\_

1. Number of the licence.	
2. Postal address of residence of applicant.	
3. Whether applicant has, since date of last grant or renewal of the licence, been disqualified for obtaining a licence.	

*Signature of Applicant* \_\_\_\_\_

*Date of Application* \_\_\_\_\_

SIXTH SCHEDULE

*Form of Licence*

No. . . . .

MOTOR CAR ACT, 1903.

County  
or  
County Borough } of . . . . .

LICENCE TO DRIVE A MOTOR CAR (or MOTOR CYCLE).

A.B., of . . . . ., is hereby licensed to drive a  
MOTOR CAR (or MOTOR CYCLE only) for the period of twelve months  
from the . . . . . day of . . . . . until the . . . . . day of . . . . .  
inclusive.

Clerk to the County Council  
or Town Clerk or duly authorised Officer.

N.B.—Particulars of any endorsement of any licence previously held  
by the person licensed must be entered on the back of this licence.

*Form of Renewal of Licence.*

This licence (Licence No.\* . . . . ., granted by the Council of the County [or  
County Borough] of . . . . ., under the Motor Car Act, 1903) is  
hereby renewed, so as to be in force for twelve months from the . . . . .  
day of . . . . . until the . . . . . day of . . . . . inclusive.

Clerk to the County Council  
or Town Clerk or duly authorised Officer.

\* NOTE.—If the holder of the licence furnishes the County Council with  
his licence for the purpose, the renewal must be entered upon the licence.  
It will otherwise be a separate document.



# STATUTORY RULES AND ORDERS, 1903

No. 1003

1903, Nov. 21.—ORDER OF THE LOCAL GOVERNMENT BOARD, DATED NOVEMBER 21, 1903, VARYING PROVISIONS OF SECTION 28 (4) OF THE HIGHWAYS AND LOCOMOTIVES (AMENDMENT) ACT, 1878, AS TO CONSTRUCTION OF WHEELS OF LOCOMOTIVES ON HIGHWAYS (a).

Highways and Locomotives (Amendment) Act, 1878,

and

Locomotives on Highways Act, 1896.

To the County Councils of the several Administrative Counties in England and Wales ;—

To the Councils of the several County Boroughs in England and Wales ;—

To the Mayor, Aldermen, and Commons of the City of London ;—

To the Councils of the several Metropolitan Boroughs ;—

To the Urban District Councils of the several Urban Districts in England and Wales ;—

To the Rural District Councils of the several Rural Districts in England and Wales ;—

And to all others whom it may concern.

Whereas by Section 28 of the Highways and Locomotives (Amendment) Act, 1878, it is enacted that it shall not be lawful to use on any highway a Locomotive constructed otherwise than in accordance with the provisions therein set forth, and by sub-section (4) of that Section it is provided as follows ; that is to say,—

“ The driving wheels of a locomotive shall be cylindrical and smooth-soled, or shod with diagonal cross-bars of not less than three inches in width nor more than three-quarters of an inch in thickness, extending the full breadth of the tire, and the space intervening between each such cross-bar shall not exceed three inches.”

And whereas by Section 9 of the Locomotives on Highways Act, 1896, it is enacted that the requirements of the above-cited sub-section may be from time to time varied by Order of the Local Government Board ;

And whereas We, the Local Government Board, by Orders dated respectively the 26th day of November, 1897, and the 4th day of November, 1898, varied the provisions of the above-cited sub-section so as to authorise the use of Locomotives having driving wheels shod with wooden blocks ; and it is expedient that the said Orders should be rescinded, and that the said provisions should be varied as hereinafter mentioned ;

Now therefore, in pursuance of the powers given to Us in that behalf, We do hereby Order as follows :—

Article I.—The said Orders dated respectively the Twenty-sixth day of November, One thousand eight hundred and ninety-seven, and the Fourth day of November, One thousand eight hundred and ninety-eight, shall be rescinded.

(a) See also S. R. & O., 1905, No. 930, *post*, p. 301.

Article II.—The provisions of sub-section (4) of Section 28 of the Highways and Locomotives (Amendment) Act, 1878, shall be varied as follows:—

A locomotive may be used the driving wheels of which, instead of being smooth-soled or shod with diagonal cross-bars, are shod with wooden blocks, subject to the following conditions:—

1. The width of each block, when the said width is measured along the circumference of the wheel, shall be not less than six inches.
2. The width of each block, when the said width is measured across the circumference of the wheel, shall be not less than six inches:

Provided that if the width prescribed by sub-section (1) or sub-section (2) of Section 28 of the Highways and Locomotives (Amendment) Act, 1878, for the tire of the driving wheels exceeds eighteen inches the width of any block, when the said width is measured across the circumference of the wheel, shall be not less than the width prescribed by such of the following rules as may be applicable to the circumstances of the case; that is to say,—

If the width of the tire does not exceed twenty inches the width of the block shall be six and a half inches.

If the width of the tire exceeds twenty inches, but does not exceed twenty-two inches, the width of the block shall be seven inches.

If the width of the tire exceeds twenty-two inches, but does not exceed twenty-six inches, the width of the block shall be eight inches.

If the width of the tire exceeds twenty-six inches, but does not exceed twenty-eight inches, the width of the block shall be eight and a half inches.

3. The interval between any two blocks, when the said interval is measured along the circumference of the wheel, shall be not more than two inches.
4. The blocks shall be arranged in two or more rows, and so that a straight line drawn through the middle of each block shall pass through the middle of the interval between the blocks of the next row.
5. The blocks shall work on efficient springs or other elastic material so as to yield with the pressure of the weight of the Locomotive; but not so that the surface of the wood block shall be at any time level with or depressed below the tire of the wheel.
6. No wheel shall be used any block of which is so worn that any metal rim surrounding the block protrudes beyond the surface of the block.

Given under the Seal of Office of the Local Government Board, this Twenty-first day of November, in the year One thousand nine hundred and three.

(L.S.)

*Walter H. Long,*  
President.

*S. B. Provis,*  
Secretary.

## STATUTORY RULES AND ORDERS, 1904

No. 315

1904, MARCH 9.—THE MOTOR CARS (USE AND CONSTRUCTION)  
ORDER, 1904

To the County Councils of the several Administrative Counties in England and Wales ;—

To the Mayor, Aldermen and Commons of the City of London in Common Council assembled ;—

To the Councils of the several County Boroughs in England and Wales ;—

To the Councils of the several Metropolitan Boroughs ;—

To the Urban District Councils of the several Urban Districts in England and Wales ;—

To the Rural District Councils acting as the Highway Authorities in Rural Districts in England and Wales ;—

And to all others whom it may concern.

Whereas by Section 6 of the Locomotives on Highways Act, 1896 (herein-after referred to as "the Act of 1896"), it is enacted that—

"(1) The Local Government Board may make regulations with respect to the use of light locomotives on highways, and their construction, and the conditions under which they may be used.

"(2) \* \* \* All regulations under this section shall have full effect notwithstanding anything in any other Act, whether general or local, or any bye-laws or regulations made thereunder."

And whereas by Section 2 of the Act of 1896 it is enacted that—

"During the period between one hour after sunset and one hour before sunrise, the person in charge of a light locomotive shall carry attached thereto a lamp so constructed and placed as to exhibit a light in accordance with the regulations to be made by the Local Government Board."

And whereas by Section 7 of the Act of 1896 it is enacted that—

"A breach of any \* \* regulation made under this Act, \* \* may, on summary conviction, be punished by a fine not exceeding ten pounds."

And whereas by an Order dated the 9th day of November, 1896, made in pursuance of the Act of 1896, We, the Local Government Board, made Regulations with respect to the use of Light Locomotives on Highways and their construction, and the conditions under which they might be used ;

And whereas, in consequence of the passing of the Motor Car Act, 1903 (herein-after referred to as "the Act of 1903"), it is expedient that the said Regulations should be rescinded and that other provision should be made with respect to the use of motor cars on highways, their construction, and the conditions under which they may be used ;

And whereas in pursuance of Section 7 of the Act of 1903 the Act of 1896 is referred to as "the principal Act," and by subsection (1) of Section 20 of the Act of 1903 it is enacted as follows :—

"(1) In this Act the expression 'Motor Car' has the same meaning as the expression 'light locomotive' has in the principal Act, as amended by this Act, except that for the purpose of the provisions of this Act with respect to the Registration of Motor Cars, the expression 'Motor Car' shall not include a vehicle drawn by a motor car.

“The provisions of this Act and of the principal Act shall apply in the case of a roadway to which the public are granted access in the same manner as they apply in the case of a public highway.”

Now therefore, in pursuance of the powers given to Us by the Act of 1896 and the Act of 1903, and by any other Statutes in that behalf, We, the Local Government Board, Do hereby rescind the said Regulations made by Our Order dated the ninth day of November, one thousand eight hundred and ninety-six, and do by this Our Order make the following Regulations with respect to the use of Motor Cars on Highways, and their construction, and the conditions under which they may be used :—

Article I.—In this Order—

The expression “carriage” includes a waggon, cart, or other vehicle. The expression “horse” includes a mule or other beast of draught or burden, and the expression “cattle” includes sheep.

The expression “Motor Car” means a vehicle propelled by mechanical power which is under three tons in weight unladen, and is not used for the purpose of drawing more than one vehicle (such vehicle with its locomotive not exceeding in weight unladen four tons), and is so constructed that no smoke or visible vapour is emitted therefrom except from any temporary or accidental cause.

In calculating for the purposes of this Order the weight of a vehicle unladen, the weight of any water, fuel, or accumulators used for the purpose of propulsion shall not be included.

The expression “highway” includes any roadway to which the public are granted access.

Article II.—No person shall cause or permit a Motor Car to be used on any highway, or shall drive or have charge of a Motor Car when so used, unless the Conditions herein-after set forth are satisfied; namely,—

- (1) The Motor Car, if it exceeds in weight unladen *seven* hundred-weight, shall be capable of being so worked that it may travel either forwards or backwards (b).
- (2) The Motor Car shall not exceed seven feet two inches in width, such width to be measured between its extreme projecting points.
- (3) The tire of each wheel of the Motor Car shall be smooth and shall, where the same touches the ground, be flat and of the width following, namely,—
  - (a) if the weight of the Motor Car unladen exceeds fifteen hundredweight, but does not exceed one ton, not less than two and a half inches;
  - (b) if such weight exceeds one ton, but does not exceed two tons, not less than three inches;
  - (c) if such weight exceeds two tons, but does not exceed three tons, not less than four inches.

Provided that where a pneumatic tire or other tire of a soft or elastic material is used the conditions herein-before set forth with respect to tires shall not apply.

- (4) The Motor Car shall have two independent brakes in good working order, and of such efficiency that the application of either to the Motor Car shall cause two of its wheels on the same axle to be so held that the wheels shall be effectually prevented from

revolving, or shall have the same effect in stopping the Motor Car as if such wheels were so held.

Provided that in the case of a Motor Car having less than four wheels this Condition shall apply as if, instead of two wheels on the same axle, one wheel was therein referred to.

*Provided also that in the case of a Motor Car which is propelled by steam and which—*

(a) *exceeds two tons in weight unladen ; and*

(b) *has one brake in good working order, and of such efficiency that the application of that brake to the Motor Car shall cause two of its wheels on the same axle to be so held that the wheels shall be effectually prevented from revolving ; and*

(c) *is not used either as a stage carriage or otherwise "for the conveyance of passengers for gain or hire" ;*

*the engine of that Motor Car, if it be capable of being reversed, shall be deemed to be the second independent brake required by this Condition (c).*

(5) Where the weight of a Motor Car unladen exceeds fifteen hundred-weight and the Motor Car is fitted with tires other than pneumatic tires or tires of a soft or elastic material, the weight of the Motor Car unladen shall be painted in one or more straight lines upon some conspicuous part of the right or off side of the Motor Car in large legible letters in white upon black or black upon white, not less than one inch in height.

(6) The Motor Car and all the fittings thereof shall be in such a condition as not to cause, or to be likely to cause, danger to any person on the Motor Car or on any highway.

(7)—(i.) The lamp to be carried attached to the Motor Car in pursuance of Section 2 of the Act of 1896 shall be so constructed and placed as to exhibit, during the period between one hour after sunset and one hour before sunrise, a white light visible within a reasonable distance in the direction towards which the Motor Car is proceeding or is intended to proceed, and to exhibit a red light so visible in the reverse direction. The lamp shall be placed on the extreme right or off side of the Motor Car in such a position as to be free from all obstruction to the light.

Provided that where a lamp, which exhibits a red light in the direction contrary to that towards which the Motor Car is proceeding, is carried attached at the back of the Motor Car, the Condition requiring the lamp attached in pursuance of Section 2 of the Act of 1896 to exhibit a red light shall not apply or have effect with regard to the Motor Car.

Provided also that—

(a) *so much of this Condition as requires any lamp attached to the Motor Car to exhibit a red light visible in the direction contrary to that towards which the Motor Car is proceeding shall not apply to a motor bicycle, unless there is attached to the motor bicycle a side car or other vehicle ;*

(b) *so much of this Condition as requires the lamp exhibiting a white light visible in the direction in which the Motor Car is proceeding to be placed on the extreme right or off*

(c) *Proviso in italics added by S. R. O., 1913, No. 444.*

*side of the Motor Car shall not apply to a motor bicycle or to a motor bicycle having attached to it a side car or other vehicle unless such side car or other vehicle is attached to or projects beyond the off side of the motor bicycle ; and*

- (c) *for the purposes of the application of this Condition to a motor bicycle having attached to it a side car or other vehicle, the lamp exhibiting a red light visible in the direction contrary to that towards which the Motor Car is proceeding may be attached to the side car or other vehicle, and, in the case of a motor bicycle having a side car or other vehicle attached to or projecting beyond the off side of the motor bicycle, the lamp required to be placed on the extreme right or off side shall be attached to the extreme right or off side of the side car or other vehicle (d).*

(ii.) Every lamp carried by the Motor Car when in use on a highway at any time during the period mentioned in this Condition shall be so constructed, fitted, and attached as to prevent the movement or the use as a searchlight of the light exhibited by any such lamp.

Article III.—No person shall cause or permit a Motor Car to be used on any highway for the purpose of drawing any vehicle, or shall drive or have charge of a Motor Car when used for such purpose, unless the Conditions herein-after set forth are satisfied, namely,—

- (1) Conditions (2), (3), (5), and (6) of Article II. of this Order shall apply as if the vehicle drawn by the Motor Car was therein referred to instead of the Motor Car itself.
- (2) Every vehicle exceeding two hundredweight in weight unladen, drawn by a Motor Car, shall have a brake in good working order of such efficiency that its application to the vehicle shall cause two of the wheels of the vehicle on the same axle to be so held that the wheels shall be effectually prevented from revolving, or shall have the same effect in stopping the vehicle as if such wheels were so held.
- (3) The vehicle drawn by a Motor Car shall, when in pursuance of the Condition lastly herein-before set forth a brake is required to be attached thereto, carry upon the vehicle a person competent to apply efficiently the brake: Provided that it shall not be necessary to comply with this Condition if the brakes upon the Motor Car by which the vehicle is drawn are so constructed and arranged that neither of such brakes can be used without bringing into action simultaneously the brake attached to the vehicle drawn, or if the brake of the vehicle drawn can be applied from the Motor Car by a person upon the Motor Car independently of the brakes of the latter.

Article IV.—Every person driving or in charge of a Motor Car when used on any highway shall comply with the Regulations herein-after set forth ; namely,—

- (1) He shall not cause the Motor Car to travel backwards for a greater distance or time than may be requisite for the safety or convenience of the occupants of the Motor Car and of the passenger and other traffic on the highway.

(d) *Proviso in italics substituted for original proviso by S. R. O., 1913, No. 1306.*

- (2) He shall not when on the Motor Car, be in such a position that he cannot have control over the same, or that he cannot obtain a full view of the road and traffic ahead of the Motor Car, or quit the Motor Car without having taken due precautions against its being started in his absence, or allow the Motor Car or a vehicle drawn thereby to stand on such highway so as to cause any unnecessary obstruction thereof.
- (3) [*Rescinded by the Amending Order of April 19, 1909 (S. R. O., 1909, No. 394).*]
- (4) [*Rescinded by same.*]
- (5) He shall, whenever necessary, by sounding the bell or other instrument required by Section 3 of the Act of 1896, give audible and sufficient warning of the approach or position of the Motor Car.
- (6) He shall on the request of any police constable in uniform, or of any person having charge of a horse, or if any such constable or person shall put up his hand as a signal for that purpose, cause the Motor Car to stop and to remain stationary so long as may be reasonably necessary.
- (7) *He shall not use any cut-out, fitting, or other apparatus or device, which will allow the exhaust gases from the engine of the motor car to escape into the atmosphere without first passing through a silencer, expansion chamber or other contrivance, suitable and sufficient for reducing as far as may reasonably be practicable the noise which would otherwise be caused by the escape of the said gases :*

*Provided that this Regulation shall apply only to a motor car propelled by an internal combustion engine (e).*

Article V.—Every Motor Car shall be so constructed as to enable the driver, when the Motor Car is stationary otherwise than through an enforced stoppage owing to necessities of traffic, to stop the action of any machinery attached to, or forming part of the Motor Car so far as may be necessary for the prevention of noise. The driver shall on every such occasion make prompt and effective use of all such means as, in pursuance of this Condition, are provided for the prevention of noise as above-mentioned.

Provided that this regulation shall not apply so as to prevent the examination or working of the machinery attached to, or forming part of, a Motor Car where any such operation is rendered necessary by any failure or derangement of the said machinery.

This Order may be cited as "The Motor Cars (Use and Construction) Order, 1904."

Given under the Seal of Office of the Local Government Board, this  
Ninth day of March, in the year one thousand nine hundred and  
four.

(L.S.)

Walter H. Long,  
President.

S. B. Provis,  
Secretary.

(e) Subsection (7) added by S. R. O., 1912, No. 1696.

## STATUTORY RULES AND ORDERS, 1904

No. 1809

THE HEAVY MOTOR CAR ORDER, 1904, DATED DECEMBER 27, 1904, PRESCRIBING REGULATIONS AS TO WEIGHT, CONDITIONS OF USE, CONSTRUCTION, AND SPEED OF HEAVY MOTOR CARS, AS AMENDED BY THE HEAVY MOTOR CAR (AMENDMENT) ORDER, 1907, DATED FEBRUARY 11, 1907; THE HEAVY MOTOR CAR (AMENDMENT) ORDER, 1911, DATED MARCH 6, 1911; THE HEAVY MOTOR CAR (AMENDMENT) ORDER, 1917, DATED DECEMBER 18, 1917; THE HEAVY MOTOR CAR (AMENDMENT) ORDER, 1921, DATED MAY 19, 1921; AND THE HEAVY MOTOR CAR (AMENDMENT) ORDER, 1922, DATED MAY 29, 1922.

To the County Councils of the several Administrative Counties in England and Wales;—

To the Mayor, Aldermen, and Commons of the City of London in Common Council assembled;—

To the Councils of the several County Boroughs in England and Wales;—

To the Councils of the several Metropolitan Boroughs;—

To the Urban District Councils of the several Urban Districts in England and Wales;—

To the Rural District Councils acting as the Highway Authorities in Rural Districts in England and Wales;—

And to all others whom it may concern.

Whereas by the Motor Car Acts, 1896 and 1903, provision was made with respect to the use of Motor Cars on highways, and in compliance with Section 1 of the Locomotives on Highways Act, 1896, which in the Motor Car Act, 1903, and in this Order is referred to as “the principal Act,” a Motor Car must be under three tons in weight unladen, and a Motor Car with a vehicle drawn by it must not exceed in weight unladen four tons;

And whereas by Section 12 of the Motor Car Act, 1903, it is enacted as follows; that is to say,—

“12.—(1) The Local Government Board by regulations made  
“under section six of the principal Act may, as respects any class of  
“vehicle mentioned in the regulations, increase the maximum weights  
“of three tons and four tons mentioned in section one of that Act,  
“subject to any conditions as to the use and construction of the  
“vehicle which may be made by the regulations.

“(2) The power of the Local Government Board to make regula-  
“tions under section six of the Locomotives on Highways Act, 1896,  
“shall, as respects motor cars exceeding two tons in weight unladen,  
“include a power to make regulations as to speed.”

And whereas in pursuance of Section 6 of the principal Act, and of Section 12 of the Motor Car Act, 1903, We, the Local Government Board, are empowered to make regulations with respect to the use of Motor Cars on highways, and their construction, and the conditions under which they may be used;

And whereas by Section 7 of the principal Act it is enacted that a breach of any regulation so made may, on summary conviction, be punished by a fine not exceeding Ten Pounds;

And whereas by the Motor Cars (Use and Construction) Order, 1904, We made regulations with respect to the use of Motor Cars on highways, and their construction, and the conditions under which they may be used ;

And whereas by the Motor Car (Registration and Licensing) Order, 1903, We made regulations with respect to the registration of Motor Cars :

Now therefore, in pursuance of Our powers in that behalf, We, the Local Government Board, Do, by this Our Order, make the following Regulations ; that is to say,—

Article I.—*Commencement of Regulations.*] The Regulations in this Order (herein-after referred to as “the Regulations”) shall come into operation on the First day of March, One thousand nine hundred and five, and that date is herein-after referred to as the commencement of the Regulations.

Article II.—*Definitions.*] In the Regulations—

*Heavy Motor Car.*] The expression “heavy motor car” means a motor car exceeding two tons in weight unladen.

*Trailer.*] The expression “trailer” means a vehicle drawn by a heavy motor car.

*Registering Authority.*] The expression “registering authority” means the County Council by whom the heavy motor car has been or can be registered in pursuance of the Roads Act, 1920 (f).

*Axle-weight.*] The expression “axle-weight” means, in relation to an axle of a heavy motor car, or of a trailer, the aggregate weight transmitted to the surface of the road or other base whereon the heavy motor car or the trailer moves or rests, by the several wheels attached to that axle when the heavy motor car, or the trailer, is loaded.

*Registered Axle-weight.*] The expression “registered axle-weight” means the axle-weight as registered by a County Council in pursuance of the Road Vehicles (Registration & Licensing) Regulations, 1921 (f).

*Width.*] The expression “width,” in relation to the tire of a wheel, means the distance measured horizontally and in a straight line across the circumference of the wheel and between the two points in the outer surface of the tire which are farthest apart.

*Diameter.*] The expression “diameter,” in relation to a wheel, means the diameter measured between the two opposite points in the outer surface of the tire which are farthest apart.

*Weight.*] The expression “weight,” in relation to a heavy motor car or trailer when unladen, means the weight of a vehicle exclusive of the weight of any water, fuel, or accumulators used for the purpose of propulsion.

Article III.—*Increase of Weights, unladen.*] Notwithstanding anything in the Motor Car Acts, 1896 and 1903, and except as is otherwise provided in the Regulations, a heavy motor car may be used on a highway if the weight of the heavy motor car unladen does not exceed seven and a quarter tons (g), or if the weight of the heavy motor car unladen with the weight of an unladen vehicle drawn by it does not exceed nine and three-quarter tons (g).

(f) As amended by the Road Vehicles (R. & L.) Regulations, 1921, Art. 37.

(g) As amended by the Heavy Motor Car (Amendment) Order, 1921.

Article IV.—*Registration of Weights.*] (1) (*h*).(2) (*h*).(3) (*h*).(4) (*i*). The owner of the heavy motor car shall cause—

(i) the registered weight of the heavy motor car unladen,

(ii) the registered axle-weight of each axle, and

(iii) the highest rate of speed at which, in conformity with the Regulations, the heavy motor car may be driven without a trailer, to be painted, or otherwise plainly marked, in the first and second case, upon some conspicuous part of the right or off side of the heavy motor car, and, in the third case, upon some conspicuous part of the left or near side of the heavy car.

The owner of the heavy motor car shall cause the aforesaid particulars to be painted or marked in letters and figures not less than one inch in height, and of such shape and colour as to be clearly legible and clearly distinguishable from the colour of the ground whereon the letters and figures are painted or marked; and he shall cause all the paint or marking to be from time to time repaired or renewed, as often as may be necessary to keep the said letters and figures clearly legible and clearly distinguishable.

(5) (*h*).(6) (*h*).

Article V.—*Axle-weights.*] (1) The axle-weight of an axle of a heavy motor car shall not exceed the registered axle-weight.

(2) The registered axle-weight of an axle of a heavy motor car shall not exceed eight tons, and the sum of the registered axle-weights of all the axles of a heavy motor car shall not exceed twelve tons.

Article VI.—*Tires.*] (1) The tire of each wheel of a heavy motor car shall be smooth, and shall, where the tire touches the surface of the road or other base whereon the heavy motor car moves or rests, be flat:

Provided that the edges of the tire may be bevelled or rounded to the extent in the case of each edge of not more than half an inch:

Provided also that, if the tire is constructed of separate plates, the plates may be separated by parallel spaces which shall be disposed throughout the outer surface of the tire so that nowhere shall the aggregate extent of the space or spaces in the course of a straight line drawn horizontally across the circumference of the wheel exceed one-eighth part of the width of the tire.

(2) The width of the tire of each wheel of a heavy motor car shall be determined by such of the following conditions as may apply to the circumstances of the case; that is to say,—

(a) The width shall in every case be not less than five inches.

(b) The width shall be not less than that number of half inches which is equal to the number of units of registered axle-weight of the axle to which the wheel is attached.

The unit of registered axle-weight shall vary according to the diameter of the wheel, and the rules set forth in the sub-joined scale; that is to say,—

(i) If the wheel is three feet in diameter, the unit of registered axle-weight shall be seven and a half hundredweights;

(*h*) Repealed by the Road Vehicles (R. & L.) Regulations, 1921, Sched. VI.

(*i*) Amended by same.

- (ii) If the wheel exceeds three feet in diameter, the unit of registered axle-weight shall be seven and a half hundredweights, with an addition of weight in the proportion of one hundredweight for every twelve inches by which the diameter is increased beyond three feet; and in the same proportion for any increase which is greater or less than twelve inches; and
  - (iii) If the wheel is less than three feet in diameter, the unit of registered axle-weight shall be seven and a half hundredweights, with a deduction of weight in the proportion of one hundredweight for every six inches by which the diameter is reduced below three feet; and in the same proportion for any reduction which is greater or less than six inches.
- (3) This Article shall not apply to any tire which is pneumatic or which is made of a soft or elastic material.

Article VII (*k*).—*Speed.*] The speed at which a heavy motor car is driven on any highway shall not exceed eight miles an hour:

Provided that—

- (a) If the weight of the heavy motor car unladen exceeds three tons;  
or
- (b) If the registered axle-weight of any axle exceeds six tons; or
- (c) If the heavy motor car draws a trailer,  
the speed shall not exceed five miles an hour.

*Provided also that (l) if the heavy motor car has all its wheels fitted with tyres made of a soft or elastic material and does not draw a trailer or draws a trailer which is so constructed and by partial super-imposition attached to the heavy motor car that at all times the weight upon the rear axle of the heavy motor car shall exceed the weight upon the axle of the trailer and which trailer has not more than two wheels in contact with the ground such wheels being fitted with pneumatic tyres or with tyres made of a soft or elastic material the speed at which the heavy motor car may be driven on any highway shall not exceed twelve miles an hour.*

Article VIII.—*Size of Wheels.*] The diameter of a wheel of a heavy motor car, if the wheel is fitted with a tire which is not pneumatic or is not made of a soft or elastic material, shall be not less than two feet.

Article IX.—*Width.*] Notwithstanding anything in the Motor Car (Use and Construction) Order, 1904, a heavy motor car, if its weight

(*k*) By the Heavy Motor Car (Amendment) Order, 1917, dated December 18, 1917, it was provided that:

So much of Article VII. of the Heavy Motor Car Order, 1904, as provides that if a heavy motor car draws a trailer the speed at which the heavy motor car is driven on any highway shall not exceed five miles an hour shall for the period of the war and twelve months thereafter cease to apply to a heavy motor car drawing a "gas container trailer."

For the purposes of this Order a "gas container trailer" is a vehicle—

- (a) constructed or adapted for use and used solely for carrying a bag or other receptacle for containing gas to be used for the purpose of propelling the vehicle;
  - (b) not exceeding in weight unladen fifteen hundredweight; and
  - (c) having all its wheels fitted with pneumatic tyres or tyres made of a soft or elastic material.
- (*l*) As amended by the Heavy Motor Car (Amendment) Order, 1922.

unladen is three tons or exceeds three tons, and any trailer drawn by any such heavy motor car, may, when measured between its extreme projecting points, be of a width not exceeding seven feet six inches.

Article X.—*Springs.*] Every heavy motor car shall be constructed with suitable and sufficient springs between each axle and the frame of the heavy motor car.

Article XI.—*Trailers.*] (1) The owner of a trailer shall cause to be painted, or otherwise plainly marked, upon some conspicuous part of the right or off side of the trailer, in letters and figures not less than one inch in height, and of such shape and colour as to be clearly legible and clearly distinguishable from the colour of the ground whereon the letters and figures are painted or marked,—

(a) The weight of the trailer unladen; and

(b) The axle-weight of each axle of the trailer, if the weight of the trailer unladen exceeds one ton.

He shall cause the paint or marking to be from time to time repaired or renewed, as often as may be necessary to keep the said letters and figures clearly legible and clearly distinguishable.

(2) The Regulations so far as they relate to the width of the tires and the size of the wheels of a heavy motor car, the wheels whereof are fitted with tires which are not pneumatic or are not made of a soft or elastic material, shall, with the necessary modifications, apply and have effect with respect to a trailer exceeding one ton in weight unladen, with the substitution in the Regulations of three inches for five inches as the minimum width in the tires, and of references to the axle-weights painted or marked upon the trailer in pursuance of this Article for references to registered axle-weights.

(3) The axle-weight of an axle of a trailer shall not exceed (m) *six and a half tons and the sum of the axle-weights of all the axles of a trailer and of the heavy motor car drawing such trailer shall not exceed twenty-two tons.*

(4) Every trailer shall be constructed with suitable and sufficient springs between each axle and the frame of the trailer.

(5) A heavy motor car which is used either as a stage carriage or otherwise for the conveyance of passengers for gain or hire, shall not draw a trailer.

(6) (m). *If a heavy motor car draws a trailer which is so partially super-imposed upon and attached to the heavy motor car that at all times the weight upon the rear axle of the heavy motor car shall exceed the weight upon the axle of the trailer the total length of the heavy motor car and the trailer so attached shall not exceed thirty-three feet when measured between the extreme projecting points.*

Article XII.—*Ascertainment of Weights by Officers of Councils.*] If a heavy motor car is upon a highway within a distance not exceeding half a mile by road from a public weighing machine, or other weighing machine which is conveniently accessible, and which belongs to or is subject to the control, or may be used for any purposes of a registering authority or of any other Council having control of the highway, and a duly authorised officer of the registering authority or other Council has reasonable ground for ascertaining whether the axle-weight for the time being of any axle of the heavy motor car, or of the trailer drawn by the heavy motor car, exceeds the registered or marked axle-weight of that axle, the officer may require the person driving or in charge of the heavy motor car to drive the

(m) As amended by the Heavy Motor Car (Amendment) Order, 1922.

heavy motor car with or without the trailer, or to cause the heavy motor car to be driven with or without the trailer, to the weighing machine, and the said officer may then cause the axle-weight for the time being of any axle to be ascertained; and the person driving or in charge of the heavy motor car shall comply with any such requirement, and shall, to the best of his ability, afford all such facilities as may be reasonably necessary for the purpose of ascertaining the axle-weight as aforesaid.

Article XIII.—*Breach of Regulations.* *Saving for existing Heavy Motor Cars.*] No person shall cause or permit to be used on any highway, or shall on any highway drive or have charge of, a heavy motor car or a trailer which is not in all respects in accordance with the Regulations so far as they relate to the use and construction of heavy motor cars or trailers, as the case may be, or which is so used or driven as to contravene the Regulations:

Provided that during a period of six months after the commencement of the Regulations any failure to comply with the Regulations so far as they relate to the use or construction of heavy motor cars or trailers shall not be deemed to be a breach or contravention of the Regulations, if the failure occurs solely in relation to a heavy motor car registered before, or to a trailer which is in use at, the commencement of the Regulations.

Article XIV (*n*). *Use of heavy motor cars on bridges.*] (1) With respect to the use of a heavy motor car on a bridge forming part of a highway the following regulations, subject to the conditions set forth in sub-division (2) of this Article, shall apply and have effect: that is to say,—

Where the person who is liable to the repair of the bridge states in a prescribed notice—

(a) that the bridge is insufficient to carry a heavy motor car the registered axle-weight of any axle of which exceeds three tons, or the registered axle-weights of the several axles of which exceed in the aggregate five tons, or any greater weight specified in the prescribed notice, or,

(b) that the bridge is insufficient to carry a heavy motor car drawing a trailer if the registered axle-weights of the several axles of the heavy motor car and the axle-weights of the several axles of the trailer exceed in the aggregate five tons, or any greater weight which is specified in the prescribed notice,

the owner of any such heavy motor car shall not cause or suffer the heavy motor car to be driven, and the person driving or in charge of the heavy motor car shall not drive, the heavy motor car upon the bridge except with the consent of the person liable to the repair of the bridge.

(2) The conditions, subject to which the regulations in sub-division (1) of this Article apply and have effect, are the following: that is to say,—

(i) Where a dispute or difference arises in relation to the insufficiency of the bridge to carry a heavy motor car, and, on a reference by the person liable to the repair of the bridge and the owner of the heavy motor car, the award or determination of an arbitrator or arbitrators or umpire adjudges the bridge to be sufficient to carry the heavy motor car, this Article shall cease to apply or have effect as regards any such heavy motor car and the use of

(*n*) As amended by the Heavy Motor Car (Amendment) Order, 1907.

the bridge by that heavy motor car, and the person liable to the repair of the bridge shall forthwith remove every prescribed notice affecting the heavy motor car and the bridge.

- (ii) If, within a period of one month, after a request in writing by the owner of a heavy motor car, the person liable to the repair of the bridge neglects or refuses to become a party to the submission to arbitration of any such dispute or difference as aforesaid, or having become a party to the submission, neglects or refuses to concur in the appointment of an arbitrator, or to appoint an arbitrator or an umpire or third arbitrator according as the submission or any agreement between the parties may require, this Article shall cease to apply or have effect as regards any such heavy motor car and the use of the bridge by that heavy motor car; and the person liable to the repair of the bridge shall forthwith remove every prescribed notice affecting the heavy motor car and the bridge.

- (iii) The person liable to the repair of the bridge may at any time by a prescribed notice specify with respect to a heavy motor car, with or without a trailer, a greater weight than that specified in a prescribed notice which in pursuance of this Article has been removed: and thereupon this Article shall apply and have effect with respect to the prescribed notice so substituted, and with respect to any other matter or thing to which this Article refers as it has applied and had effect with respect to a prescribed notice of earlier date, and with respect to any such other matter or thing, prior to the date of the prescribed notice substituted as aforesaid.

(3) For the purposes of this Article the expression "prescribed notice" means a statement which contains all such particulars as are required to be shown for the purposes of the regulations and conditions in this Article, and also the name and address of the person liable to the repair of the bridge, which is printed or painted in legible letters or figures of such a colour as to be clearly distinguishable from the colour of the ground whereon the letters and figures are printed or painted, which is attached to or forms part of a suitable board, plate or tablet of wood, iron, or other durable material, and which is affixed or set up in a suitable and conspicuous position at each end of a bridge.

(4) The owner of a heavy motor car the registered axle-weights of the several axles of which, with the axle-weights of the several axles of any trailer drawn by the heavy motor car, exceed in the aggregate six tons shall not cause or suffer the heavy motor car to be driven, and the person driving or in charge of the heavy motor car shall not drive, the heavy motor car upon a bridge forming part of a highway at any time when another heavy motor car, or a locomotive to which the Locomotives Act, 1898, applies, is on the bridge.

(5) Nothing in this Article shall apply to Menai Bridge,

any bridge which crosses the River Thames and any part of which is in the City of London or County of London, and any bridge

- (a) whereof the use is subject, for the time being, to any such condition, restriction, or prohibition, imposed by or by virtue of a Local and Personal Act, or by or by virtue of an Act confirming a Provisional Order, or by or by virtue of any byelaw, regulation, rule, order, notice, or other means authorised by the said Act, as is incon-

sistent with the use on the bridge of any such heavy motor car as is described in this Article ; and

(b) whereon, for the time being, the effect of the condition, restriction, or prohibition is stated in a prescribed notice.

#### Article XV (o).

Article XVI.—*Application of earlier Orders as to Motor Cars.*] As regards matters which are not hereinbefore expressly mentioned in relation to heavy motor cars, the Motor Car (Registration and Licensing) Order, 1903, and the Motor Car (Use and Construction) Order, 1904, shall apply and have effect subject to the Regulations ; and any provisions of either Order which are inconsistent with the Regulations shall cease to apply and have effect in relation to a heavy motor car.

Article XVII (p).—*Military Motor Cars.*] The Regulations, in relation to any heavy motor car which belongs to His Majesty the King, and is used for the time being, under the care, superintendence, or control of a Secretary of State, for military purposes, shall apply and have effect—

(a) (q).

(b) *As if to Article VI. of this Order there were added the following sub-division ; that is to say,—*

(4) *Nothing in sub-division (1) of this Article shall have effect so as to prevent the use of tires constructed, shod or fitted with diagonal cross-bars or to regulate or determine the width of the spaces between such crossbars, and if the tires of any pair of wheels of a heavy motor car are so constructed, shod or fitted, the conditions of sub-division (2) of this Article shall, for the purpose of determining the width of each of those tires, apply subject to the substitution throughout those conditions of five hundredweights for seven and a half hundredweights as the unit of registered axle-weight.*

Article XVIII.—*Short Title.*] This Order may be cited as the Heavy Motor Car Order, 1904.

#### SCHEDULE (o).

### STATUTORY RULES AND ORDERS, 1905

No. 930

ORDER OF THE LOCAL GOVERNMENT BOARD, DATED AUGUST 7, 1905, VARYING PROVISIONS OF SECTION 28 (4) OF THE HIGHWAYS AND LOCOMOTIVES (AMENDMENT) ACT, 1878, AS TO CONSTRUCTION OF WHEELS OF LOCOMOTIVES ON HIGHWAYS.

Highways and Locomotives (Amendment) Act, 1878, and Locomotives on Highways Act, 1896.

To the County Councils of the several Administrative Counties in England and Wales ;—

To the Councils of the several County Boroughs in England and Wales :—

(a) Repealed by the Road Vehicles (R. & L.) Regulations, 1921, Sched. VI.

(p) As amended by S. R. O., 1911, No. 208.

(q) Repealed by the Heavy Motor Car Amendment Order, 1921, No. 906.

To the Mayor, Aldermen, and Commons of the City of London ;—  
 To the Councils of the several Metropolitan Boroughs ;—  
 To the Urban District Councils of the several Urban Districts in  
 England and Wales ;—  
 To the Rural District Councils of the several Rural Districts in  
 England and Wales ;—  
 And to all others whom it may concern.

Whereas by Section 28 of the Highways and Locomotives (Amendment) Act, 1878, it is enacted that it shall not be lawful to use on any highway a Locomotive constructed otherwise than in accordance with the provisions therein set forth, and by sub-section (4) of that Section it is provided as follows ; that is to say,—

“ The driving wheels of a locomotive shall be cylindrical and  
 “ smooth-soled, or shod with diagonal cross-bars of not less than  
 “ three inches in width nor more than three-quarters of an inch in  
 “ thickness, extending the full breadth of the tire, and the space  
 “ intervening between each such cross-bar shall not exceed three  
 “ inches.”

And whereas by Section 9 of the Locomotives on Highways Act, 1896, it is enacted that the requirements of the above-cited sub-section may be from time to time varied by Order of the Local Government Board :—

And whereas We, the Local Government Board, by an Order dated the 21st day of November, 1903, varied the provisions of the above-cited sub-section so as to authorise, subject to the conditions in that Order contained, the use of Locomotives having driving wheels shod with wooden blocks ; and it is expedient that the said provisions should be further varied as herein-after mentioned ;

Now therefore, in pursuance of the powers given to Us in that behalf, We do hereby Order as follows :—

The provisions of sub-section (4) of Section 28 of the Highways and Locomotives (Amendment) Act, 1878, as varied as aforesaid shall be further varied as follows :—

A Locomotive may be used, every driving wheel of which, instead of being smooth-soled or shod with diagonal cross-bars, shall be constructed so that its contact with the surface of the ground shall be by means of a single row of moveable feet protruding from the circumference of the wheel, and at equal distances throughout that circumference, and so that the wheel and each foot and every fitting, part, attachment, or adjunct of the wheel or foot shall, as regards construction, mechanism, dimensions, method of working, and other details, satisfy such of the following conditions as apply to the particular case :—

#### CONDITIONS.

##### *Foot.*

1. Every foot shall be fitted with a shoe.

##### *Shoe.*

2. The shoe shall be of metal, and its shape, construction, and fitting shall be such as to obviate contact with the surface of the ground by any other part than the sole.

##### *Sole.*

3. The sole may be formed of—  
 (a) Metallic material ; or  
 (b) Non-metallic material.

The sole may also be formed of a combination of metallic material and of non-metallic material, but, in that case, the metallic material shall not, in any part of the outer bearing surface of the sole, project beyond the non-metallic material, and the non-metallic material shall be soft.

Material shall be deemed to be unsuitable for a sole, and a sole shall not be used, where the material—

- (a) if non-metallic, is not, except as regards the outer bearing surface of the sole, completely surrounded and held fast by a metallic band forming part of the shoe ; or
- (b) by defective fitting or otherwise causes or facilitates suction by the shoe when the foot ascends ; or
- (c) if metallic, has in any part of the outer-bearing surface a projection. The shape of the sole may be rectangular, circular, or elliptical.

Where the sole is rectangular and all the sides are equal, the length of each side shall be not less than six inches.

Where the sole is rectangular and all the sides are not equal, the length of each of the lesser sides shall be not less than six inches.

Where the sole is circular, the diameter shall be not less than seven inches ; and

Where the sole is elliptical, the minor axis shall be not less than six and a half inches.

The area of the outer bearing surface of the sole shall be after the rate of not less than sixty square inches for each ton comprised in the total weight borne by the sole when the whole area of the outer bearing surface of the sole is in contact with the ground and when the locomotive is unladen.

#### *Mechanism.*

4. The internal and external mechanism of the wheel and the method of attachment of the foot and shoe to the internal mechanism of the wheel, and every fitting, part, or adjunct of the wheel or of the foot or of the shoe shall be at all times such, and shall be so maintained, adjusted, and used, as to work and to cause the foot and shoe to work so that—

- (a) There shall, so far as is practicable, be an entire absence of jar or vibration ;
- (b) The velocity of the shoe shall decrease as it comes in contact with the surface of the ground ;
- (c) There shall, so far as is practicable, be not less than two shoes in contact with the surface of the ground at one and the same time ;
- (d) The shoe shall not slide sideways on the surface of the ground ;
- (e) The shoe when it comes in contact with the surface of the ground shall, as far as may be practicable, come in contact evenly throughout the entire surface of the sole, and so that the outer bearing surface of the sole shall adjust itself to any slope or inequality of the surface of the ground ;
- (f) The shoe when in contact with the surface of the ground shall not rotate, turn, or pivot ;
- (g) The shoe when in contact with the surface of the ground shall not move until it ceases to bear any part of the load ;
- (h) Generally the action of the wheel, of the foot and of the shoe and of every part of the mechanism or apparatus connected with the wheel, the foot, or the shoe, shall be such as to obviate pounding, disturbance, or damage of a highway by the wheel,

or by the foot, or by the shoe, or by any part of the mechanism or apparatus connected with the wheel, the foot, or the shoe. Given under the Seal of Office of the Local Government Board, this Seventh day of August, in the year One thousand nine hundred and five.

(L.S.)

G. W. Balfour,  
President.

S. B. Provis,  
Secretary.

## STATUTORY RULES AND ORDERS, 1907

No. 614

REGULATIONS DATED JULY 31, 1907, MADE BY THE SECRETARY OF STATE UNDER SECTION 5 OF THE LOCOMOTIVES ON HIGHWAYS ACT, 1896, AS TO THE KEEPING AND USE OF PETROLEUM FOR THE PURPOSES OF LIGHT LOCOMOTIVES (r).

Locomotives on Highways Act, 1896 (59 & 60 Vict. c. 36, s. 5).

*In promulgating the following Regulations relating to the keeping, conveyance and use of petroleum in connection with light locomotives, the Secretary of State for the Home Department desires to direct public attention to the dangers that may arise from the careless use of the more volatile descriptions of petroleum, commonly known as petroleum spirit. Not only is the vapour therefrom, which is given off at ordinary temperatures, capable of being easily ignited, but it is also capable, when mixed with air, of forming an explosive atmosphere. It is, therefore, necessary, in dealing with and handling the spirit, to take strict precautions by the employment of thoroughly sound and properly closed vessels to prevent leakage of the spirit, and by avoiding the use of naked lights in dangerous proximity to prevent the contact of any form of artificial light with the highly inflammable vapour which it is always evolving.*

### REGULATIONS.

By virtue of the powers conferred on me by the Fifth Section of the Locomotives on Highways Act, 1896, I hereby make the following Regulations for the keeping and use of petroleum for the purposes of light locomotives (s).

In these Regulations the expression "petroleum spirit" shall mean the petroleum to which the Petroleum Acts, 1871 and 1879, apply, provided that when any petroleum other than that to which the said Petroleum Acts apply, is on or in any light locomotive, or is being conveyed or kept in any place on or in which there is also present any petroleum spirit as above defined, the whole of such petroleum shall be deemed to be petroleum spirit.

In these Regulations the expression "storehouse" shall mean any room, building, coachhouse, lean-to, or other place in which petroleum spirit for the purposes of light locomotives is kept in pursuance of these

(r) As amended by S. R. O., 1919, No. 780.

(s) Under the Seventh Section of the Act, a breach of these Regulations may, on summary conviction, be punished by a fine not exceeding ten pounds.

Regulations and shall include an open-air place of storage, when and so long as due precautions for the prevention of unauthorised persons having access to the petroleum spirit are taken in pursuance of No. 13 of these Regulations.

1. The following shall be exempt from licence under the Petroleum Act, 1871, namely:—

- (a) Petroleum spirit which is kept for the purpose of, or is being used on, light locomotives when kept or used in conformity with these Regulations.
- (b) Petroleum spirit which is kept for the purpose of, or is being used on, light locomotives by, or by authority of, one of His Majesty's Principal Secretaries of State, the Admiralty, or other department of the Government.

2. These Regulations shall apply to petroleum spirit which is kept for the purpose of, or is being used on, light locomotives, and for which (save as hereinafter provided) no licence has been granted by the Local Authority under the Petroleum Act, 1871, and shall not apply to petroleum spirit which is kept for sale, or partly for sale and partly for use on light locomotives, and which must be kept in accordance with the provisions of the Petroleum Acts as heretofore, except that Regulations 13 and 14 shall apply to petroleum spirit which is kept partly for sale and partly for use on light locomotives.

These Regulations shall not apply to the keeping or use of petroleum spirit by or under the control of any Government Department. Such keeping or use may be the subject of Regulations to be made by the Department concerned.

3. Where for any special reason a person keeping petroleum spirit for the purpose of light locomotives applies for a licence under the Petroleum Act, 1871, and the Local Authority see fit to grant such licence, such petroleum spirit shall be subject only to Regulations 8 to 15 and the conditions of such licence, in so far as the said conditions are not contrary to the said Regulations 8 to 15.

4. Where a storehouse forms part of, or is attached to, another building, and where the intervening floor or partition is of an unsubstantial or highly inflammable character, or has an opening therein, the whole of such building shall be deemed to be the storehouse, and no portion of such storehouse shall be used as a dwelling or as a place where persons assemble.

A storehouse shall have a separate entrance from the open air distinct from that of any dwelling or building in which persons assemble.

5. The amount of petroleum spirit to be kept in any one storehouse, whether or not upon light locomotives, shall not exceed 60 gallons at any one time.

6. Where two or more storehouses are in the same occupation and are situated within 20 feet of one another, they shall for the purposes of these Regulations be deemed to be one and the same storehouse, and the maximum amount of petroleum spirit prescribed in the foregoing Regulation shall be the maximum to be kept in all such storehouses taken together. Where two or more storehouses in the same occupation are distant more than 20 feet from one another, the maximum amount shall apply to each storehouse.

7. Any person who keeps petroleum spirit in a storehouse which is situated within 20 feet of any other building whether or not in his occupation, or of any timber stack or other inflammable goods not owned by

him, shall give notice to the local authority under the Petroleum Acts for the district in which he is keeping such petroleum spirit, that he is so keeping petroleum spirit, and shall renew such notice in the month of January in each year during the continuance of such keeping, and shall permit any duly authorised officer of the local authority to inspect such petroleum spirit at any reasonable time. This Regulation shall not apply to petroleum spirit kept in a tank forming part of a light locomotive.

8. Every storehouse shall be thoroughly ventilated.

9. Petroleum spirit shall not be kept, used, or conveyed except in metal vessels so substantially constructed as not to be liable, except under circumstances of gross negligence or extraordinary accident, to be broken or become defective or insecure. Every such vessel shall be so constructed and maintained that no leakage, whether of liquid or vapour, can take place therefrom.

10. Every such vessel, not forming part of a light locomotive, when used for conveying or keeping petroleum spirit shall bear the words "petroleum spirit highly inflammable" conspicuously and indelibly stamped or marked thereon, or on a metallic or enamelled label attached thereto, and shall be of a capacity not exceeding two gallons.

Provided that this limitation of capacity shall not apply in any place of storage which is licensed under the Petroleum Act, 1871, unless such limitation is required by the conditions of the licence.

*Notwithstanding anything in No. 10 of the Regulations dated 31st July, 1907, petroleum spirit may be kept for the purposes of light locomotives in iron or steel drums or barrels of a capacity not exceeding 50 gallons provided the following conditions are observed:*

- (a) *The storehouse must be situated at a distance of at least 20 feet from any other building or any highway or public footpath.*
- (b) *Provision must be made by excavation or by the erection of retaining walls to prevent outflow of the spirit in the event of fire if such outflow would be likely to endanger life or cause damage to the property of others.*
- (c) *Notice shall be given to the Local Authority and the duly authorised officer of such Authority shall be allowed to inspect the spirit in such manner as is provided in No. 7 of the said Regulations.*

*This Regulation shall remain in force until 31st December, 1923, unless sooner revoked (t).*

11. Before repairs are done to any such vessel, that vessel shall, as far as practicable, be cleaned by the removal of all petroleum spirit and of all dangerous vapours derived from the same.

12. The filling or replenishing of a vessel with petroleum spirit shall not be carried on, nor shall the contents of any such vessel be exposed in the presence of fire or artificial light, except a light of such construction, position or character, as not to be liable to ignite any inflammable vapour arising from such spirit, and no fire or artificial light capable of igniting inflammable vapour shall be brought within dangerous proximity of the place where any vessel containing petroleum spirit is being kept.

13. In the case of all petroleum spirit kept or conveyed for the purpose of, or in connection with, any light locomotive, (a) all due precautions shall be taken for the prevention of accidents by fire or explosion, and for the prevention of unauthorised persons having access to any petroleum spirit kept or conveyed, and to the vessels containing or intended to

(t) Addition in italics added by S. R. O., 1919, No. 780.

contain, or having actually contained, the same; and (b) every person managing, or employed on, or in connection with, any light locomotive shall abstain from every act whatever which tends to cause fire or explosion, and which is not reasonably necessary, and shall prevent any other person from committing such act.

14. In the storehouse or in any place where a light locomotive is kept or is present, petroleum spirit shall not be used for the purpose of cleaning or lighting, or as a solvent or for any purpose other than as fuel for the engine of a light locomotive.

Provided that where due precaution is taken to prevent petroleum spirit from escaping into a sewer or drain and provision made for disposing safely of any surplus petroleum spirit and where no fire or naked light is present, quantities not exceeding one gill may be used for the cleaning of a light locomotive at a safe distance from any building, place of storage of inflammable goods, or much frequented highway, or for the repair of tyres under suitable precautions.

This Regulation shall apply to premises on which petroleum spirit is kept for the purpose of, or is being used on, light locomotives, whether such premises are licensed or not, unless the Local Authority see fit, in the case of licensed premises, to grant an exemption by a special term of the licence.

15. Petroleum shall not be allowed to escape into any inlet or drain communicating with a sewer.

16. These Regulations shall come into operation on the 15th August, 1907, from which date all previous Regulations made under the Fifth Section of the said Act are hereby repealed.

*H. J. Gladstone,*  
One of His Majesty's Principal  
Secretaries of State.

Whitehall,  
31st July, 1907.

NOTE.—From the above Regulations it will be seen that there are two methods in which petroleum spirit required for use in motor cars may be kept. The first of these will be the usual method, namely, to keep in accordance with these regulations; but where a person finds that for some special reason he cannot observe one of the Regulations 4, 5 or 6, he may resort to the second method, namely, to apply to the Local Authority for a licence. In such cases the place will be examined by the Local Authority officer, who will advise the Local Authority as to its suitability for licence. Where a licence has been granted Regulations 4 to 7 no longer apply.

In no case is petroleum spirit kept wholly or partly for sale exempt from the necessity of a licence.

## MOTOR CAR (INTERNATIONAL CIRCULATION) ACT, 1909 (*u*)

(9 EDW. 7, c. 37)

*AN ACT to enable Orders in Council to be made for the purpose of giving effect to any Convention for facilitating the International Circulation of Motor Cars.*

[25th November, 1909.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1. *Power to make Order in Council for carrying out conventions as to international circulation of motor cars.*] (1) His Majesty may by Order in Council (*x*) for the purpose of giving effect to any convention for facilitating the international circulation of motor cars, provide—

- (a) for the grant and authentication of any travelling passes, certificates, or authorities which may be of use to persons resident in the United Kingdom when temporarily taking their motor cars abroad, or to drivers when proceeding abroad for the purpose of driving motor cars; and
- (b) for modifying the provisions of the Motor Car Act, 1903, (*u*) relating to the registration of motor cars and the licensing of motor-car drivers in the case of motor cars brought temporarily into the United Kingdom by persons resident abroad, and intending to make only a temporary stay in the United Kingdom, and of drivers entering the United Kingdom for the purpose of driving any such cars.

(2) Any modifications of the Motor Car Act, 1903, (*u*) made by an Order in Council under this section shall have effect as if they were contained in that Act.

(3) Any Order in Council under this Act may be varied or revoked by any subsequent Order in Council under this Act.

2. *Short title.*] This Act may be cited as the Motor Car (International Circulation) Act, 1909.

## DEVELOPMENT AND ROAD IMPROVEMENT FUNDS ACT, 1909 (9 EDW. 7, c. 47) (AS AMENDED BY ROADS ACT, 1920 (10 & 11 GEO. 5, c. 72))

1909, December 3 [*R. Assent*].] *AN ACT to promote the Economic Development of the United Kingdom and the Improvement of Roads therein.*

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons,

(*u*) References to the Act of 1903 in this Act are to be deemed to refer also to the Roads Act, 1920, *q.v.*, s. 7 (8).

(*x*) See the Orders of 1910 and 1921, *post*, pp. 317 and 380.

in this present Parliament assembled, and by the authority of the same, as follows :—

## PART I

## DEVELOPMENT

1. *Power to make advances for certain purposes.*] (1) The Treasury may, upon the recommendation of the Development Commissioners appointed under this Act, make advances to a Government department, or through a Government department to a public authority, university, college, school, or institution, or an association of persons or company not trading for profit, either by way of grant or by way of loan, or partly in one way and partly in the other, and upon such terms and subject to such conditions as they may think fit, for any of the following purposes :—

- (a) Aiding and developing agriculture and rural industries by promoting scientific research, instruction and experiments in the science, methods and practice of agriculture (including the provision of farm-institutes), the organisation of co-operation, instruction in marketing produce, and the extension of the provision of small holdings; and by the adoption of any other means which appear calculated to develop agriculture and rural industries;
  - (b) Forestry (including (1) the conducting of inquiries, experiments, and research for the purpose of promoting forestry and the teaching of methods of afforestation; (2) the purchase and planting of land found after inquiry to be suitable for afforestation);
  - (c) The reclamation and drainage of land;
  - (d) The general improvement of rural transport (including the making of light railways but not including the construction or improvement of roads);
  - (e) The construction and improvement of harbours;
  - (f) The construction and improvement of inland navigation;
  - (g) The development and improvement of fisheries;
- and for any other purpose calculated to promote the economic development of the United Kingdom.

(2) All applications for advances under this Part of this Act shall be made to the Treasury in accordance with regulations made by the Treasury.

(3) 8 *Edw. 7, c. 36.*] No advance shall be made for any purpose which might be carried out under the provisions of the Small Holdings and Allotments Act, 1908, upon any terms or conditions different from those contained in that statute except for some special reason which shall be stated in the annual report of the Development Commissioners.

2. *Establishment of development fund.*] (1) All advances, whether by way of grant or by way of loan, made under this Part of this Act, shall be made out of a fund, called the development fund, into which shall be paid—

- (a) Such moneys as may from time to time be provided by Parliament for the purposes of this Part of this Act;
- (b) The sums issued out of the Consolidated Fund under this section; and
- (c) Any sums received by the Treasury by way of interest on or repayment of any advance made by way of loan under this Part of this Act, and any profits or proceeds derived from the

expenditure of any advance which by the terms on which the advance was made are to be paid to the Treasury.

(2) There shall be charged on and issued out of the Consolidated Fund, or the growing produce thereof, in the year ending the thirty-first day of March nineteen hundred and eleven, and in each of the next succeeding four years, the sum of five hundred thousand pounds.

(3) The Treasury may accept any gifts made to them for all or any of the purposes for which advances may be made under this Part of this Act and, subject to the terms of gift, apply them for the purposes of this Part of this Act in accordance with regulations made by the Treasury.

(4) The Treasury shall cause an account to be prepared and transmitted to the Comptroller and Auditor-General for examination, on or before the thirtieth day of September in every year, showing the receipts into and issues out of the development fund in the financial year ended on the thirty-first day of March preceding, and the Comptroller and Auditor-General shall certify and report upon the same, and such account and report shall be laid before Parliament by the Treasury on or before the thirty-first day of January in the following year if Parliament be then sitting, and, if not sitting, then within one week after Parliament shall be next assembled.

(5) Payments out of and into the development fund, and all other matters relating to the fund and the moneys standing to the credit of the fund, shall be made and regulated in such manner as the Treasury may by minute to be laid before Parliament direct.

(6) The Treasury may from time to time invest any moneys standing to the credit of the development fund in any securities in which trustees are by law authorised to invest trust funds.

3. *Constitution of Development Commissioners.*] (1) For the purposes of this Part of this Act it shall be lawful for His Majesty by warrant under the sign manual to appoint five Commissioners, to be styled the Development Commissioners, of whom one to be appointed by His Majesty shall be chairman.

(2) Subject to the provisions of this section, the term of office of a Commissioner shall be ten years. One Commissioner shall retire every second year, but a retiring Commissioner may be reappointed. The order in which the Commissioners first appointed are to retire shall be determined by His Majesty. On a casual vacancy occurring by reason of the death, resignation, or incapacity of a Commissioner, or otherwise, the person appointed by His Majesty to fill the vacancy shall continue in office until the Commissioner in whose place he was appointed would have retired, and shall then retire.

(3) There shall be paid to not more than two of the Commissioners such salaries, not exceeding in the aggregate three thousand pounds in each year, as the Treasury may direct.

(4) The Commissioners may act by three of their number and notwithstanding a vacancy in their number, and, subject to the approval of the Treasury, may regulate their own procedure.

(5) The Commissioners may, with the consent of the Treasury, appoint and employ such officers and servants for the purposes of this Part of this Act as they think necessary, and may remove any officer or servant so appointed and employed, and there shall be paid to such officers and servants such salaries or remuneration as the Commissioners, with the consent of the Treasury, may determine.

(6) The salaries of the Commissioners and the salaries or remuneration of their officers and servants, and any expenses incurred by the Commissioners in the execution of their duties under this Part of this Act, to such amount as may be sanctioned by the Treasury, shall be defrayed out of the development fund.

4. *Powers and duties of Commissioners.*] (1) Every application for an advance under this Part of this Act, whether by way of grant or by way of loan, by any body qualified to receive an advance under this Part of this Act, shall, if the applicant is a Government Department, be referred by the Treasury to the Development Commissioners, and, if the applicant is any other body or persons, shall be sent by the Treasury to the Government Department concerned, to be by them referred together with their report thereon to the Development Commissioners.

(2) The Commissioners shall consider and report to the Treasury on every application so referred to them, and may for that purpose, if necessary, hold inquiries either by themselves, or by any of their officers, or any other person appointed for the purpose.

(3) The Commissioners may also appoint advisory committees, and may submit to any such advisory committee for their advice any application referred to them.

(4) The Commissioners may also frame schemes with respect to any of the matters for which advances may be made under this Part of this Act with a view to their adoption by a Government Department or other body or persons to whom an advance may be made.

(5) Before making any recommendation for an advance for the purpose of the improvement of rural transport, the Commissioners shall consult with the *Minister of Transport* (y).

(6) The Commissioners shall make to the Treasury an annual report of their proceedings, and such report shall be laid annually before Parliament by the Treasury.

5. *Power to acquire land for certain purposes.*] (1) Where an advance is made under this Part of this Act for any purpose which involves the acquisition of land, the Department, body, or persons to whom the advance is made, may acquire and hold land for the purpose, and, where they are unable to acquire by agreement on reasonable terms any land which they consider necessary, they may apply to the Development Commissioners for an order empowering them to acquire the land compulsorily in accordance with the provisions of the Schedule to this Act, and the Commissioners shall have power to make such order.

(2) No land shall be authorised by an order under this section to be acquired compulsorily which, at the date of the order, forms part of any park, garden, or pleasure ground, or forms part of the home farm attached to and usually occupied with a mansion house, or is otherwise required for the amenity or convenience of any dwelling-house, or which at that date is the property of any local authority, or has been acquired by any corporation or company for the purposes of a railway, dock, canal, water, or other public undertaking, or is the site of an ancient monument or other object of archaeological interest.

(3) The Commissioners, in making an order for the compulsory purchase of land, shall have regard to the extent of land held or occupied in the locality by any owner or tenant and to the convenience of other property

(y) As amended by the Roads Act, 1920, 1st Schedule.

belonging to or occupied by the same owner or tenant, and shall, so far as practicable, avoid taking an undue or inconvenient quantity of land from any one owner or tenant, and for that purpose where part only of a holding is taken shall take into consideration the size and character of the existing agricultural buildings not proposed to be taken which are used in connexion with the holding and the quantity and nature of the land available for occupation therewith, and shall also so far as practicable avoid displacing any considerable number of agricultural labourers or others employed on or about the land.

6. *Definition of agriculture and rural industries.*] For the purposes of this Part of this Act the expression "agriculture and rural industries" includes agriculture, horticulture, dairying, the breeding of horses, cattle, and other live stock and poultry, the cultivation of bees, home and cottage industries, the cultivation and preparation of flax, the cultivation and manufacture of tobacco, and any industries immediately connected with and subservient to any of the said matters.

## PART II

### ROAD IMPROVEMENT

#### 7. *Constitution of Road Board* (z).

8. (a) *Powers of the Minister.*] (1) The *Minister* shall have power, with the approval of the Treasury—

(a) *to make to any highway authority advances in respect of the construction of new roads or the maintenance or improvement of existing roads or to make such advances in conjunction with a highway authority to any company or person ;*

(b) *to construct and maintain any new roads which appear to the Minister to be required for facilitating road traffic.*

(2) Where advances have been made to highway authorities in respect of the construction of new roads, the *Minister* may, where he thinks it desirable, also contribute towards the cost of maintenance of such new roads.

(3) (z).

(4) An advance to a highway authority may be either by way of grant or by way of loan, or partly in one way and partly in the other, and shall be upon such terms and subject to such conditions as the *Minister* thinks fit.

(5) For the purposes of this Part of this Act the expression "improvement of roads" includes the widening of any road, the cutting off the corners of any road where land is required to be purchased for that purpose, the levelling of roads, the treatment of a road for mitigating the nuisance of dust, and the doing of any other work in respect of roads beyond ordinary repairs essential to placing a road in a proper state of repair ; and the expression "roads" includes bridges, viaducts, subways, *road-ferries and footways.*

9. (a) *Provisions as to roads constructed by the Minister.*] (1) Every road constructed by the *Minister* under the provisions of this Part of this Act shall be a public highway, and the enactments relating to highways and

(z) Repealed by Roads Act, 1920, Sched. I.

(a) As amended by Roads Act, 1920, Sched. I.

bridges shall apply to such roads accordingly, except that every such road shall be maintainable by and at the cost of the *Minister*, and, for the purpose of the maintenance, repair, improvement, and enlargement of or dealing with any such road, the *Minister* shall have the same powers (except the power of levying a rate) and be subject to the same duties as a county council have and are subject to as respects main roads, and may further exercise any powers vested in a county council for the purposes of the maintenance and repair of bridges, and the *Minister* shall have the same powers as a county council for the preventing and removing of obstructions :

Provided that—

- (a) Communications between a road or path and a road constructed by the *Minister* shall be made in manner to be approved by the *Minister* ; and
  - (b) The *Minister* and any highway authority in whose district any part of any such road is situate may contract for the undertaking by such authority of the maintenance and repair of the part of such road in their district ; and, for the purposes of such undertaking, the highway authority shall have the same powers and be subject to the same duties and liabilities as if the road were a road vested in the highway authority.
- (2) Before the Treasury approve of the construction of a new road by the *Minister*, they shall consult with the Ministry of Transport (b) and shall satisfy themselves that notice of the intention to construct the road has been sent by the *Minister* to every highway authority in the area of which any part of the proposed road will be situate, and shall consider any objections to the proposed road which they may receive from any such authority.

10 (c). *Provisions as to construction of new roads by highway authorities.*]

(1) Where the *Minister* makes an advance to a highway authority in respect of the construction of a new road, the *Minister* may authorise the authority to construct the road, and where so authorised the highway authority shall have power to construct the road and to do all such acts as may be necessary for the purpose, and any expenses of the authority, so far as not defrayed out of the advance, shall be defrayed as expenses incurred by the authority in exercise of their powers as highway authority, and the enactments relating to such expenses, including the provisions as to borrowing, shall apply accordingly.

(2) Where the highway authority to whom the advance is made are a county council, the new road, when constructed, shall be a main road and in any other case shall be a highway repairable by the inhabitants at large :

Provided that the maintenance of any such road within the administrative county of London shall devolve upon the local authority responsible for the maintenance of streets and roads in whose district the same is situate.

11 (c). *Acquisition of land.*] (1) Where the *Minister* proposes to construct a new road under this Part of this Act, the *Minister* may acquire land for the purpose, and may, in addition, acquire land on either side of

(b) Formerly Local Government Board.

(c) As amended by Roads Act, 1920, Sched. I.

the proposed road within two hundred and twenty yards from the middle of the proposed road.

(2) (d).

(3) Where a highway authority are authorised to construct a new road under this Part of this Act, or an advance is made to such an authority in respect of the improvement of an existing road, the authority may acquire land for the purpose of such construction or improvement.

(4) For the purpose of the purchase of land by agreement under this Part of this Act by the *Minister* or a highway authority the Lands Clauses Acts shall be incorporated with this Part of this Act, except the provisions of those Acts with respect to the purchase and taking of land otherwise than by agreement, and section one hundred and seventy-eight of the Public Health Act, 1875, shall apply as if the *Minister* and the highway authority were referred to therein.

(5) Where the *Minister* or any highway authority are unable to acquire by agreement on reasonable terms any land which they consider necessary, they may apply to the Development Commissioners for an order empowering them to acquire the land compulsorily in accordance with the provisions of the Schedule to this Act, and the Commissioners shall have power to make such an order: Provided that the provisions of Part I. of this Act, prohibiting the compulsory acquisition of the classes of land mentioned in subsection (3) of section five of this Act shall apply to the acquisition by the *Minister* of land on either side of a road proposed to be constructed by the *Minister*.

(6) The *Minister* shall have full power, with the approval of the Treasury, to sell, lease, and manage any land acquired by *him* under this Part of this Act and not required for the new road (e).

#### 12. *Expense and Receipts of Road Board (d).]*

13. (f) *Power to borrow.*] (1) The *Minister* may, with the approval of and subject to regulations made by the Treasury, borrow on the security of the *Road Fund* for the purpose of meeting any expenditure which appears to the Treasury to be of such a nature that it ought to be spread over a term of years, so however that the total amount required for the payment of interest on and the repayment of money so borrowed shall not exceed in any year the sum of two hundred thousand pounds.

(2) If and so far as the *Road Fund* is insufficient to meet the amount required for the payment of interest on and the repayment of principal in any year, that amount shall be charged on and payable out of the Consolidated Fund or the growing produce thereof, but any sums so paid out of the Consolidated Fund shall be made good out of the *Road Fund*.

#### 14. *Annual report to Parliament (d).]*

15. *Application to London.*] For the purposes of this Part of this Act the expression "highway authority" includes, as respects the administrative county of London, the London County Council.

16. *Application to Scotland.*] This Part of this Act shall apply to Scotland, subject to the following modifications:—

The expression "highway authority" means a county council or a town

(d) Repealed by Roads Act, 1920, Sched. I.

(e) Remainder of subsection repealed by Roads Act, 1920, Sched. I.

(f) As amended by Roads Act, 1920, Sched. I.

council, and the expressions "road" and "main road" mean any road or street maintainable at the cost of a highway authority. References to a county council and to the powers and duties thereof shall as regards their respective areas be deemed to include references to a county road board and a district committee of a county council and to a town council and to their respective powers and duties. The reference to a highway maintainable by the inhabitants at large shall not apply :

The expression "Local Government Board" means the Secretary for Scotland.

17. *Application to Ireland.*] This Part of this Act shall apply to Ireland, subject to the following modifications :—

- (1) The expression "highway authority" means the council of any county or county borough :
- (2) The expression "Local Government Board" means the Local Government Board for Ireland :
- (3) The reference to a road vested in a highway authority shall be construed as a reference to a road maintainable at the cost of the council of a county or county borough.

#### GENERAL

18. *Obligation to consider the state and prospects of employment.*] In approving, executing, or making advances in respect of the execution of any work under this Act involving the employment of labour on a considerable scale, regard shall be had so far as is reasonably practicable to the general state and prospects of employment.

19. *(g) Provisions as to commons and open spaces.*] (1) Where an order made by the Development Commissioners under Part I. or Part II. of this Act authorises the acquisition of any land forming part of any common, open space, or allotment, the order, so far as it relates to the acquisition of such land, shall be provisional only, and shall not have effect unless and until it is confirmed by Parliament, except where the order provides for giving in exchange for such land other land, not being less in area, certified by the Board of Agriculture and Fisheries to be equally advantageous to the persons, if any, entitled to commonable or other rights, and to the public :

Provided that—

- (a) This provision shall not apply to the acquisition of any common land for the purpose of forestry, if the order provides for the granting to the public of reasonable access to the land for air, exercise, or recreation unless the land has been dedicated to the public use and enjoyment or is a metropolitan common within the terms of the Metropolitan Commons Act, 1866, or is a suburban common as defined by the Commons Act, 1876, or is subject to a scheme of regulation made in pursuance of the Metropolitan Commons Acts, 1866 to 1898, or the Inclosure Acts, 1845 to 1899, or to a private or local Act of Parliament ; and
- (b) This provision shall not apply to the acquisition of any common

(g) As amended by Roads Act, 1920, Sched. I.

land for the purpose of the construction of a new road or the improvement of an existing road within a rural district; and

- (c) Nothing in this Act shall authorise the acquisition of land on either side of a new road to be constructed by the *Minister* where the land forms part of a common, open space, or allotment.

(2) Before giving any such certificate of equality of exchange, the Board of Agriculture and Fisheries shall give public notice of the proposed exchange, and shall afford opportunities to all persons interested to make representations and objections in relation thereto, and shall, if necessary, hold a local inquiry on the subject.

(3) Where any order of the Development Commissioners authorises such an exchange, the order shall provide for vesting the land given in exchange in the persons in whom the common, open space, or allotment was vested, subject to the same rights, trusts, and incidents as attached to the common, open space, or allotment, and for discharging the part of the common, open space, or allotment acquired from all rights, trusts, and incidents to which it was previously subject.

(4) For the purposes of this Act the expression "common" shall include any land subject to be enclosed under the Inclosure Acts, 1845 to 1852, and any town or village green; the expression "open space" means any land laid out as a public garden or used for the purposes of public recreation and any disused burial ground; and the expression "allotment" means any allotment set out as a fuel allotment or a field garden allotment under an Inclosure Act.

20. *Short title.*] This Act may be cited as the Development and Road Improvement Funds Act, 1909.

#### SCHEDULE

(1) *Sections 5 and 11.*] Where a Government Department, body, or persons to whom an advance is made under Part I. of this Act, or the *Minister* (*h*) or a highway authority (in this Schedule referred to as "the undertakers") propose to purchase land compulsorily under this Act, the undertakers may submit to the Development Commissioners a draft order putting in force, as respects the lands specified in the order, the provisions of the Lands Clauses Acts with respect to the purchase and taking of land otherwise than by agreement.

(2) The order shall be in the prescribed form and shall contain such provisions as the Development Commissioners may prescribe for the purpose of carrying the order into effect, and shall incorporate the Lands Clauses Acts and sections seventy-seven to eighty-five of the Railways Clauses Consolidation Act, 1845, or, in Scotland, sections seventy to seventy-eight of the Railways Clauses Consolidation (Scotland) Act, 1845, and those Acts shall apply accordingly, subject to the following modifications:—

- (A) Any question of disputed compensation shall be determined by a single arbitrator, who shall be appointed, and whose remuneration shall be fixed, as respects England, by the Lord Chief Justice of England, as respects Scotland by the Lord President of the Court of Session, and as respects Ireland by the Lord Chief Justice of Ireland, and the arbitrator so appointed shall be deemed to be an arbitrator within the meaning of those Acts;

- (B) An arbitrator so appointed may, notwithstanding anything in the Lands Clauses Acts, determine the amount of costs, and shall have power to disallow, as costs of the arbitration, the costs of any witness

(*h*) As Amended by Roads Act, 1920, Sched. I.

whom he considers to have been called unnecessarily, and any other costs which he considers have been caused or incurred unnecessarily;

- (c) In determining the amount of any disputed compensation under any such order, no additional allowance shall be made on account of the purchase being compulsory, and the arbitrator shall have regard to the extent to which the remaining and contiguous lands and hereditaments belonging to the same proprietor may be benefited by the proposed work or road for which the land is authorised to be acquired by the undertakers;

- (d) The provisions of the Lands Clauses Acts as to the sale of superfluous land shall not apply.

(3) The draft order shall be published by the undertakers in the prescribed manner, and such notice shall be given both in the locality in which the land is proposed to be acquired and to the owners, lessees, and occupiers of that land as may be prescribed, and in the case of land forming part of a common, open space, or allotment, also to the Board of Agriculture and Fisheries.

(4) An order authorising the acquisition of any buildings may, if a portion only of those buildings are required for the purposes of the undertakers, notwithstanding anything in the Lands Clauses Acts, require the owners of and other persons interested in those buildings to sell and convey to the undertakers the portions only of the buildings so required, if the arbitrator is of opinion that such portions can be severed from the remainder of the properties without material detriment thereto, and, in such case, the undertakers shall not be obliged to purchase the whole or any greater portion thereof, and shall pay for the portions acquired by them and make compensation for any damage sustained by the owners thereof or other parties interested therein by severance or otherwise.

(5) An order may provide for the continuance of any existing easement or the creation of any new easement over the land authorised to be acquired.

(6) Where the land is glebe land or other land belonging to an ecclesiastical benefice, the order shall provide that sums agreed upon or awarded for the purchase of the land or to be paid by way of compensation for the damage to be sustained by the owner by reason of severance or other injury affecting the land, shall not be paid as directed by the Lands Clauses Acts, but shall be paid to the Ecclesiastical Commissioners to be applied by them as money paid to them upon a sale under the provisions of the Ecclesiastical Leasing Acts of land belonging to a benefice.

The provisions of this paragraph shall not apply to Scotland or Ireland.

(7) In construing, for the purposes of this schedule or any order made thereunder, any enactment incorporated with the order, this Act together with the order shall be deemed to be the special Act and the undertakers shall be deemed to be the promoters of the undertaking, and the expression "land" shall include easements, in or relating to land.

(8) In this Schedule the expression "prescribed" means prescribed by the Development Commissioners, and in Scotland the expression "easements" means servitudes.

## STATUTORY RULES AND ORDERS, 1910

### No. 421

MOTOR CAR (INTERNATIONAL CIRCULATION) ORDER, 1910, DATED APRIL 22, 1910, AS AMENDED BY THE MOTOR CAR (INTERNATIONAL CIRCULATION) AMENDMENT ORDER, 1912.

At the Court at St. James's, the 22nd day of April, 1910. Present: His Royal Highness the Prince of Wales; Lord President, Sir Fleetwood Edwards; Lord Steward, Colonel Seely.

WHEREAS His Majesty was pleased, by His Commission dated the 5th day of March, 1910, to nominate and appoint His Royal Highness the Prince of Wales in His Majesty's absence from His Realm in Foreign Parts to hold on His Majesty's behalf His Privy Council, and to signify thereat His approval of any matter or thing whereunto His Royal Highness should be authorised by writing under His Majesty's Sign Manual, and to do further on His Majesty's behalf any matter or thing for the purposes of the said Commission whereunto His Royal Highness should be authorised in manner aforesaid :

AND WHEREAS by Section 1 of the Motor Car (International Circulation) Act, 1909, it is enacted as follows :—

“ 1. (1) His Majesty may, by Order in Council for the purpose of  
“ giving effect to any convention for facilitating the international  
“ circulation of motor cars, provide—

“ (a) for the grant and authentication of any travelling passes,  
“ certificates, or authorities which may be of use to persons  
“ resident in the United Kingdom when temporarily  
“ taking their motor cars abroad, or to drivers when pro-  
“ ceeding abroad for the purpose of driving motor cars ;  
“ and

“ (b) for modifying the provisions of the Motor Car Act, 1903,  
“ relating to the registration of motor cars and the licensing  
“ of motor car drivers in the case of motor cars brought  
“ temporarily into the United Kingdom by persons resident  
“ abroad, and intending to make only a temporary stay  
“ in the United Kingdom, and of drivers entering the  
“ United Kingdom for the purpose of driving any such  
“ cars.

“ (2) Any modifications of the Motor Car Act, 1903, made by an Order  
“ in Council under this section shall have effect as if they were contained  
“ in that Act.”

AND WHEREAS on the 11th day of October, 1909, a Convention (herein-  
after referred to as “ the Convention ”) with respect to the international  
circulation of motor cars was concluded at Paris between the foreign  
countries following, that is to say :—Germany, Belgium, France, Italy,  
Monaco, Roumania, and Servia, and since that date His Majesty and the  
foreign countries following, namely :—Austria and Hungary, Bulgaria,  
Spain, Greece, Montenegro, the Netherlands, Portugal and Russia have  
acceded to the Convention :

AND WHEREAS His Majesty and certain of the aforesaid foreign countries  
have ratified the Convention :

AND WHEREAS Articles 1 and 2, part of Article 3, Article 4 and part  
of Article 6 of the Convention and Annexe C appended to the Convention  
are in the terms set forth in the First Schedule to this Order :

NOW, THEREFORE, His Royal Highness the Prince of Wales, being  
authorised thereto by writing under His Majesty's Sign Manual, doth  
hereby by and with the advice of His Majesty's Privy Council, and by  
virtue of the authority committed to His Majesty by the Motor Car (Inter-  
national Circulation) Act, 1909, for the purpose of giving effect to the  
Convention, order and it is hereby ordered as follows :—

## PART I

## BRITISH CARS GOING ABROAD

Article I.—(1) The Local Government Board (*i*) shall be the competent authority and they are hereby empowered to carry out in accordance with, and subject to the provisions of, this Order, the following duties, that is to say:—

(a) To examine any motor car registered in any part of the United Kingdom under the provisions of the Motor Car Act, 1903, which is submitted for examination and, if satisfied, after such examination

(i) that the motor car is suitable for use on the highway in a foreign country, and that it fulfils the conditions specified in sub-divisions (1) (2) (3) and (4) of Article I. of the First Schedule to this Order or, in the case of a motor cycle, the said conditions as modified by the paragraph numbered (1) in Article 6 of that Schedule; or

(ii) that the motor car is of a type which is suitable for the purpose aforesaid, and which complies with the specified conditions;

to issue a Certificate of Fitness in the Form A in the Second Schedule to this Order or in a form to the like effect;

(b) To examine any person submitting himself for examination and, if upon examination he is found to be competent, to issue to him a Driver's Certificate of Competence in the Form B in the Second Schedule to this Order, or in a form to the like effect: Provided that a Certificate of Competence shall not be granted to any person who is under eighteen years of age, or who does not hold a licence to drive issued in pursuance of the Motor Car Act, 1903;

(c) To issue, subject to the conditions of Article II. of this Order, to the owner of any motor car registered as aforesaid, an International Travelling Pass under the Seal of the Local Government Board (*i*);

(d) To prescribe the type or types of motor cars for the purposes of sub-division (ii) in paragraph (a) of sub-division (1) of this Article.

(2) (i) The Local Government Board (*i*) may, under such conditions as they think fit, authorise by Order one or more Associations to perform all or any of the duties specified in sub-division (1) of this Article and may at any time revoke all or any part of such authorisation.

(ii) An Association authorised as aforesaid shall keep in a form or forms to be approved by the Local Government Board (*i*) a Register or Registers of all Certificates and International Travelling Passes issued by them under such authorisation, and the Register or Registers shall be open to inspection by the Local Government Board (*i*) or by any person authorised by the Board (*i*).

Article II.—(1) The following conditions shall be fulfilled before an International Travelling Pass is issued:—

(a) The motor car for which an International Travelling Pass is issued shall be a motor car in respect of which a Certificate of Fitness shall have been issued in pursuance of Article I. of this Order; and

(i) Now the Ministry of Transport.

(b) Particulars as to the driver or drivers of the motor car shall be indicated on the International Travelling Pass in the place provided for the purpose, and every such driver shall possess a Certificate of Competence issued in pursuance of Article I. of this Order.

(2) Every Certificate of Fitness or of Competence and every International Travelling Pass issued under the foregoing provisions shall be valid for a period of one year from the date of issue.

Article III.—The following fees shall be chargeable on the issue of a Certificate or an International Travelling Pass under the foregoing provisions of this Order :—

Certificate of Fitness of motor car	.	.	.	seven shillings
Driver's Certificate of Competence	.	:	.	seven shillings
International Travelling Pass	.	.	.	seven shillings

In the case of a motor cycle one half only of the foregoing fees shall be chargeable.

## PART II (*k*)

## PART III (*k*)

## PART IV

### APPLICATION TO SCOTLAND AND IRELAND

Article VII.—In the application of this Order to Scotland and Ireland there shall be substituted for a reference to the Local Government Board a reference to the Secretary for Scotland and a reference to the Local Government Board for Ireland respectively.

Article VIII.—(1) This Order may be cited as the Motor Car (International Circulation) Order, 1910.

(2) This Order shall come into operation on the first day of May, one thousand nine hundred and ten.

ALMERIC FITZROY.

## FIRST SCHEDULE

### ARTICLE I.

*Conditions to be fulfilled by Motor Cars in order to be allowed to be driven on the highway.*

Every motor car, in order to be allowed to be driven on the highway in a foreign country, must either have been recognised as suitable for use on the highway after an examination before the competent Authority or before an association authorised by that Authority, or must belong to a type approved in the same manner.

The examination must be directed specially to the following points :—

(1) The machinery must be such as can be trusted to work efficiently and must be so designed as to prevent, as far as possible, all danger of fire or explosion, as not to frighten by its noise animals, whether ridden or driven, and as not to give rise to any other cause of danger to traffic or seriously to inconvenience by the emission of smoke or vapour any persons using the road.

(2) The motor car must be provided with the following :—

(a) A strong steering apparatus which will allow the car to be turned readily and with certainty ;

(*k*) Repealed by the Motor Car (International Circulation) (Amendment) Order, 1921, *post*, p. 380.

- (b) Two brakes, each independent of the other and adequate for its purpose. One at least of these brakes must be capable of acting rapidly and directly upon the wheels or upon brake-drums immovably fixed thereto ;
- (c) A mechanism which is capable of preventing even on steep gradients any backward movement, if one of the brakes is not of itself sufficient for the purpose.

Every motor car whose weight unladen exceeds 350 kilogrammes must be so constructed that the driver can, from his seat, reverse the movement of the car by means of the driving power.

(3) All the driving and steering apparatus must be so arranged that the driver can manipulate it with certainty and at the same time have a clear view of the road.

(4) Every motor car must be provided with plates showing the name of the manufacturer of the chassis and the manufacturer's number, the horse-power of the engine or the number and bore of its cylinders, and also the weight of the car unladen.

## ARTICLE 2.

### *Conditions to be fulfilled by Drivers of Motor Cars.*

The driver of a motor car must possess qualifications which provide a sufficient guarantee of public safety.

In so far as the driving of motor cars in foreign countries is concerned, no one may drive a motor car without having received for that purpose an authorisation given by a competent Authority or by an Association authorised by that Authority after having shown himself on examination to be competent.

Such an authorisation must not be given to a person less than 18 years of age.

## ARTICLE 3.

### *Issue and Recognition of International Travelling Passes.*

In order to secure as regards the driving of motor cars in foreign countries that the conditions mentioned in Articles 1 and 2 are fulfilled, International Travelling Passes shall be issued.

\* \* \* \* \*

These passes shall be valid for one year from the date of issue. The manuscript entries therein shall always be written in Latin characters or in ordinary English handwriting.

\* \* \* \* \*

## ARTICLE 4.

### *Arrangement of Identification Marks on Motor Cars.*

No motor car shall be allowed to pass from one country into another unless it carries fixed in a visible position on the back of the car, in addition to the number plate of its own nationality, a distinctive plate displaying letters indicating that nationality. The size of this plate and the method and size of the lettering are prescribed in a note appended to the present Convention (Annexe C).

## ARTICLE 6.

### *Special Provisions with regard to Motor Cycles.*

The provisions of this Convention apply to motor tricycles and motor bicycles, subject to the following modifications :—

(1) The machinery intended to prevent a car from slipping backwards referred to in paragraph (c) of sub-division (2) of Article 1 is not required, nor is the reversing gear.

\* \* \* \* \*

(3) The distinctive nationality plate of motor cycles shall measure only

18 centimeters in width and 12 centimeters in height. The letters shall measure 8 centimeters in height, the breadth of each line being 10 millimeters.

\*

\*

\*

\*

\*

## ANNEXE C.

The distinctive mark of the country of origin shall consist of an oval plate 30 centimeters in width and 18 centimeters in height, bearing one or two letters painted in black upon a white ground. The letters shall be formed of capital letters in Latin characters, and shall measure at least 10 centimeters in height, the breadth of each line being 15 millimeters. The distinctive letters for the different countries shall be the following :—

Germany, D ; Austria, A ; Belgium, B ; Spain, E ; United States of America, US ; France, F ; Great Britain and Ireland, GB ; Greece, GR ; Hungary, H ; Italy, I ; Montenegro, MN ; Monaco, MC ; the Netherlands, NL ; Portugal, P ; Russia, R ; Roumania, RM ; Servia, SB ; Sweden, S ; Switzerland, CH ; Bulgaria, BG.

## SECOND SCHEDULE

## FORM A.

Number .

MOTOR CAR (INTERNATIONAL CIRCULATION) ORDER, 1910.

## CERTIFICATE OF FITNESS OF CAR

This is to certify that the motor car described hereunder has been examined and found to be fit for use on the highway in a Foreign Country.

Name of Owner of Car (in full)

Owner's home address

Index letter and registered number of car

Description of car (*e.g.* motor car, motor cycle, etc.)

Name of manufacturer

Type of chassis or engine

Body of car { shape,  
                  { colour,  
                  { number of seats.

Weight of car unladen (*in kilogrammes*)*Signature.*

## FORM B.

Number .

MOTOR CAR (INTERNATIONAL CIRCULATION) ORDER, 1910.

## DRIVER'S CERTIFICATE OF COMPETENCE

This is to certify that A.B.\* of  
has been examined and found to be competent to drive a motor car.

*Signature.*

\* Insert full name and home address of driver.

# LONDON HACKNEY CARRIAGE REGULATION, 1910 323

FORM C (a).

FORM D (a).

FORM E (a).

## LONDON HACKNEY CARRIAGES

REGULATIONS OF MAY 17, 1910, MADE BY THE COMMISSIONER OF METROPOLITAN POLICE UNDER SECTION 4 OF 13 & 14 VICT. CAP. 7 (THE LONDON HACKNEY CARRIAGES ACT, 1850), AND TO BE OBSERVED BY DRIVERS AT ALL STANDINGS WITHIN THE METROPOLITAN POLICE AREA.

(1) The drivers of the first two motor-cabs must be with their cabs and ready to be hired at once by any person.

(2) All cabs on the standing must move up as vacancies occur.

(3) No motor-cab engaged for some future time shall remain on the standing unless willing to accept any intermediate hiring that may be offered.

(4) No disabled motor-cab shall remain on the standing unless such disablement is strictly temporary, and can be, and is, remedied at once. If the disablement is not of such a nature, a notice (in a form to be approved by the Commissioner) must be at once placed on the cab to the effect that it cannot be used, and will be removed for repair.

The following Regulations are also to be observed by drivers at standings provided with "shelters" :—

(5) A proportion of drivers, not exceeding one-fourth of those actually on the standing, or, if the standing is full, of the total authorised number, may, subject to the reservations hereinafter mentioned, be allowed a time for meals *not exceeding thirty minutes for each driver*.

(6) Every driver who wishes to avail himself of the "meal time" must obtain from the constable on duty at the standing and place upon his cab a stamped official notice or card showing his cab is not for hire. The period allowed for meals will take effect from the time when the driver receives the official notice or card.

(7) The drivers must then place their cabs on that portion of the standing set aside for the purpose, the cabs taking position in proper consecutive order.

(8) As a rule, the number of cabs on the "ordinary" portion of the standing should not fall below the number on the "reserved" portion, and a sufficient number of cabs from the "reserved" portion may be required to move up to the "ordinary" portion though the full period of 30 minutes allowed to the drivers has not expired.

In no case, however, may the number available to the public on the "ordinary" portion be less than one-fourth of the total number actually on the combined portions of the standings, or in any event less than two cabs as provided in Regulation No. 1. The vacancies on the "ordinary" portion are to be filled by the leading cabs on the "reserved" portion unless the driver finds a substitute to move up for him.

(a) Repealed by The Motor Car (International Circulation) (Amendment) Order, 1921, *post*, p. 380.

(9) A driver desiring to place his cab on a standing is entitled to a vacant place on the "ordinary" portion of it, and to precedence for hire over the drivers of the cabs on the "reserved" portion.

(10) Each driver who obtains the stamped official notice or card from the constable must himself return it to the constable, and may on no account transfer or lend it to another person.

(11) For the purpose of the Regulations a "shelter" is deemed to be a recognised temporary building or other structure at or near a standing to which cab drivers only have the right of access and at which food is provided for the drivers who resort thereto.

## STATUTORY RULES AND ORDERS, 1917

No. 426

### METROPOLITAN AND CITY POLICE DISTRICTS

#### *Hackney and Stage Carriages*

ORDER, DATED MAY 1, 1917, MADE BY THE SECRETARY OF STATE IN PURSUANCE OF THE METROPOLITAN PUBLIC CARRIAGE ACT, 1869 (32 & 33 VICT. C. 115), AND THE LONDON CAB AND STAGE CARRIAGE ACT, 1907 (7 EDW. 7, C. 55).

### PART I

#### *Licensing of Cabs and Stage Carriages*

In pursuance of Sections 6 and 11 of the Metropolitan Public Carriage Act, 1869, I hereby prescribe as follows :—

1. I appoint the Commissioner of Police of the Metropolis, hereinafter referred to as the Commissioner, to grant all licences in respect of cabs and stage carriages.

2. A person desirous of obtaining a licence for a cab or stage carriage shall make application at the office of the Commissioner, or at such other place as the said Commissioner may appoint.

Such application, if for a cab licence, may be in the form contained in Schedule A hereto, and if for a stage carriage, in the form contained in Schedule B hereto, or in such other form respectively as the Commissioner may from time to time direct.

3. An application for a licence on behalf of any co-partnership or company, shall be made by, and the licence if granted shall be issued to, the senior partner, or the Secretary or Manager, or other responsible official of the company, as the case may be.

4. A licence shall not be granted to any person under the age of 21 years, and if granted to any such person shall be void.

The Commissioner may in his discretion refuse to grant a licence in any of the following cases :—

- (1) if the applicant has been convicted of any indictable offence or of an offence of cruelty within the meaning of the Protection of Animals Act, 1911 ;

- (2) if the applicant has previously obtained a licence for a cab or a stage carriage and such licence has been revoked or suspended ;  
(3) if the applicant fails to satisfy the Commissioner—

- (a) that the cab or stage carriage conforms to the condition of fitness from time to time prescribed by the Commissioner ;  
(b) that the applicant is of good character and business repute and that his financial position is such that he is a fit and proper person to hold a licence ;  
(c) Where the application is made on behalf of a firm or company, that the applicant is of good character and that the firm or company is of good business repute and that its financial position is such that a licence may properly be granted.

5. The price for a licence for a cab or stage carriage is £2.

6. If the application is approved by the Commissioner the applicant shall pay to the Receiver for the Metropolitan Police District, or to some person whom such Receiver shall appoint, the said sum of £2, and upon payment being made, the said Receiver shall issue, or cause to be issued, to the applicant a receipt for the amount paid.

7. If, however, after the Commissioner has approved of the application, anything comes to his knowledge, or circumstances arise, which satisfy him that it is undesirable that such licence should be granted, he may withdraw or suspend such approval, and if such approval is finally withdrawn, a licence shall not be issued. Any sum of money paid in respect of such application for a licence shall be forthwith refunded to the applicant.

8. The applicant shall bring the carriage to which he desires the licence shall attach, to a passing station or such other place as the Commissioner shall direct for examination, and at the same time shall hand the approved application form and receipt to the Inspector of Public Carriages.

9. If the carriage is found fit for public use, the Inspector shall cause a plate bearing the number which is to distinguish such carriage, and hereinafter called the number plate, to be affixed thereto in his presence, together with such approval mark as the Commissioner may from time to time direct.

The number plate shall be fixed on the back of each carriage in the most convenient and conspicuous place to be determined by the Commissioner.

In the case of a cab the Inspector shall, at the same time, cause to be affixed to the carriage a plate, hereinafter called the fare plate, setting forth the particulars of fares which may be demanded by the driver from the hirer, also a number plate to be visible from the inside of every such carriage. Such plates shall be affixed in convenient and conspicuous places to be approved by the Commissioner.

The Inspector shall then sign the certificate in the form contained in Schedule C.

10. A licence (subject to the conditions hereinafter specified) shall thereupon be issued to the applicant from the Office of the Commissioner.

11. A licence for a cab shall be in the form contained in Schedule D hereto, and for a stage carriage shall be in the form contained in Schedule E hereto.

12. The person to whom a licence shall be issued, whether individually or on behalf of a co-partnership or company, shall be responsible for the observance of the conditions under which the licence is granted as if he were the person solely interested in the licence.

13. A licence granted in respect of any cab or stage carriage under this Part of the Order, shall be subject to the following conditions :—

(a) The licensee shall not permit or suffer the carriage to be sub-let; provided that this condition shall not prevent a licensed person, who has been registered with and specially approved by the Commissioner, from lending or letting a licensed vehicle to another person licensed in respect of a cab or stage carriage for a period not exceeding 21 days, if notice in writing of such lending or letting be sent to the Commissioner one clear day before the loan or letting, giving the name of the licensed person to whom the carriage is proposed to be lent or let.

The Commissioner may, in his discretion, refuse such special approval, and may also, in his discretion, withdraw the approval which authorised a person to lend or let as herein provided.

(b) The licensee shall, if during the currency of his licence he changes his address, within seven days from such change bring his licence to the office of the Commissioner, and the Commissioner shall thereupon endorse the licence with the new address. The address mentioned in or last endorsed upon the licence shall, for all purposes connected with the licence, be deemed to be the address of the licensee of the carriage to which the licence refers.

(c) The licensee :—

- (1) Shall not knowingly permit his carriage to be used for an illegal purpose.
- (2) Shall not deface his licence by erasure or otherwise.
- (3) Shall at all times, when required, produce his licence and the licences of the drivers or conductors in his employ to the Commissioner, or to such persons as he may appoint.
- (4) Shall at all reasonable times allow to all persons appointed by the Commissioner to be Inspectors of Public Carriages free access to his premises and stables for the purpose of inspecting the public carriage to which the licence relates, the horses, if any, used for drawing the same and their harness.
- (5) Shall within three days after a notice shall have been delivered to him personally or left at the address mentioned in or last endorsed upon his licence, deliver up his licence to the Inspector of Public Carriages at the police station of the district within which the place of his address so mentioned or endorsed is situate, and shall bring the public carriage to the same police station in order that the plates may be unfixed and delivered up to the Inspector of Public Carriages.

(d) The licensee of any cab or stage carriage shall not conceal or remove, or permit or suffer any person, except such as are authorised by the Commissioner, to conceal or remove any plate affixed to such carriage in pursuance of this Order, nor shall he alter or obliterate, or permit or suffer any person, except as aforesaid, to alter or obliterate any number or mark placed thereupon in pursuance of this Order or by the authority of the Commissioner.

(e) The licensee shall keep the carriage and all its furniture and appointments, and the harness of the horse or horses, if any, drawing the same, in perfect order and repair, and shall not suffer any person,

or object, or any printed, written or other matter to appear on the outside or inside of the carriage, or upon the harness or horses, by way of advertisement, except such, if any, as shall be approved by the Commissioner.

(f) The licensee of a cab shall not employ or permit or suffer any person to be employed as a driver of such carriage unless he be licensed in accordance with Schedule II of this Order, nor shall he employ such person to drive carriages of a type other than those mentioned in or endorsed upon the said driver's licence.

(g) The licensee of a stage carriage shall not employ or permit or suffer any person to be employed as a driver of such carriage unless he be licensed in accordance with Schedule I of this Order, nor shall he employ such person to drive carriages of a type other than those mentioned in or endorsed upon the said driver's licence.

14. Any licence defaced or on which there is an erasure shall be void.

15. A licence granted under this Part of the Order shall be liable to revocation or suspension by the Commissioner in any of the following events:—

(a) If the licence has been obtained by any misrepresentation.

(b) If the licensed person fails to comply with any of the conditions upon which the licence issued to him has been granted.

(c) In any of the events in which a licence for a cab or stage carriage might have been revoked or suspended at the time of the passing of the Metropolitan Public Carriage Act, 1869.

(d) If the licensee commits a breach of the said Metropolitan Public Carriage Act or of this Order.

(e) If, in the opinion of the Commissioner, the licensee cannot continue to be held without risk to the public, or if the conduct of the licensee is or has been during the currency of the licence such as to render it inadvisable, in the opinion of the Commissioner, that the licensee should continue to hold the licence.

16. In the case of the death of any licensee during the currency of his licence, the licence shall be brought to the Office of the Commissioner, and the Commissioner may by endorsement thereon transfer the licence to the personal representative of the deceased person, or to his widow or child, if such representative or widow or child is of full age and satisfies the Commissioner as hereinafter required, of his or her power to hold such licence. In like manner and on like conditions, in the case of the marriage of a female during the currency of her licence, such licence may be transferred to her husband. In the case of a partnership or company, the licence may, on like conditions, be transferred from the licensee to his successor.

17. In pursuance of Section 7 of the London Cab and Stage Carriage Act, 1907, I hereby order that all Acts and Orders relating to stage-carriages in London shall apply to:—

(1) Every carriage using a tramway or light railway;

(2) Every carriage constructed on the basis of an omnibus, characterised, whether or not, as other vehicle which is constructed or used for the conveyance of passengers and which gives for hire on any street, road or place, and in which the passengers or any of them are charged to pay separate and defined or at the rate of separate

and distinct fares for their respective places or seats therein, and which on every journey goes to or comes from some town or place beyond London.

Provided that nothing in this Order shall apply to a four-horse coach known as a stage coach, or to any other vehicle or class of vehicle which shall from time to time be specially exempted from its provisions by Order under my hand.

## PART II

### *Licensing of Drivers of Cabs and Drivers and Conductors and Assistant Conductors of Stage Carriages*

In pursuance of Section 8 of the Metropolitan Public Carriage Act, 1869, I hereby prescribe as follows:—

18. A licence to act as driver of a stage carriage or as driver of a cab, or upon the special recommendation of a proprietor a licence to act either as driver or conductor of a stage carriage, may be granted by the Commissioner provided that the applicant be not less than 21 years of age.

A licence to act as conductor of a stage carriage may be granted by the Commissioner provided the applicant be not less than 20 years of age.

19. Upon a written request being made by a proprietor to the Commissioner, a licence to act as an assistant to a conductor of a Stage Carriage may be granted provided the applicant be not less than 16 years of age.

Except where a contrary intention appears the provisions of this Order and of any Act or Order in force relating to a conductor of a stage carriage shall apply to an assistant to a conductor in the same way as they apply to a conductor.

20. The Commissioner may in his discretion refuse to grant any such licence—

- (a) if the applicant fails to satisfy him that he is of good character and fit to act as such driver, conductor, or assistant conductor, as the case may be;
- (b) if the applicant having previously obtained a licence to act as a driver or conductor or assistant conductor has, unless prevented by illness or other unavoidable cause, failed to act as such driver or conductor or assistant conductor, as the case may be, during any considerable part of the period for which such licence was granted.

21. Such licences shall be respectively in the forms contained in the Schedules F, G, H, M, and N to this Order, and shall, if not revoked or suspended, be in force for one year from the date thereof; and for every such licence there shall be paid to the Receiver for the Metropolitan Police District, or to such person as he shall appoint, the sum of five shillings.

22. Every licence granted to a driver or conductor shall be subject to revocation or suspension for any period of time by any justice of the peace in any of the events in which a licence granted to a driver of a cab or a driver or conductor of a stage carriage in pursuance of any Act of Parliament might, at the passing of the Metropolitan Public Carriage

Act, 1869, be revoked or suspended, and also by any justice of the peace in the event of any breach of this Order or of any of the provisions of the said Metropolitan Public Carriage Act, 1869, or of the London Cab and Stage Carriage Act, 1907.

23. Any licence granted under this Part of the Order shall also be subject to revocation by the Commissioner should the driver or conductor become in the opinion of the Commissioner unable to exercise his calling without risk to the public.

24. A copy of the licence shall be issued to every driver and conductor.

### PART III

#### *Regulations as to Cabs and Stage Carriages*

In pursuance of Section 9 of the Metropolitan Public Carriage Act, 1869, and Section 1 of the London Cab and Stage Carriage Act, 1907, I hereby make the following regulations:—

25. The proprietor shall cause to be painted at the back of his cab, on the outside, the number of persons which the cab is licensed to carry.

If the proprietor suffers his cab to ply for hire without such number so painted, he shall be deemed to have committed a breach of this Order.

26. If a cab carry a greater number of persons than the number which it is licensed to carry, the driver, and also the proprietor, if he be cognizant of the fact, shall be deemed to have committed a breach of this Order.

For the purpose of this Regulation, one child or two children under 10 years of age shall count as one person.

27. The driver of a motor cab shall not permit or suffer any other person to be on the driving box.

28. The proprietor shall supply a sufficient number of tickets in the following form, and no other, for the use of any person hiring the cab, and the driver shall, if so required, deliver one such ticket, and no other, to the hirer:—

CAB, No. _____
Proprietor's Name _____
Address _____
(The Particulars required to complete above are to be legibly written or printed.)
_____
Magistrates are empowered to hear and determine complaints between hirers and drivers.
Applications respecting property left in Cab should be made personally or by letter to the Lost Property Office, New Scotland Yard, S.W.

29. The proprietor of a public carriage shall within three days after the expiration of the period for which the licence shall have been granted, deliver up his licence to the Inspector of Public Carriages at the police station of the district within which the place of his address, mentioned

in or last endorsed upon the licence, is situate, and shall bring the public carriage to the same police station in order that the plates may be unfixed and delivered up to the Inspector of Public Carriages.

*Note.*—Nothing in this clause shall exempt the proprietor from any penalty to which he might be liable for using, or permitting the use of, an unlicensed carriage.

30. Immediately after the termination of any hiring, the driver of a cab, and immediately after the termination of any journey, the conductor of a stage carriage, or if there be no conductor, the driver, shall carefully search the carriage for any property which may have been accidentally left therein, and shall within 24 hours deposit such property, if not sooner claimed by the owner, in the state in which he finds it, at any police station.

31. Any passenger who finds property accidentally left in a stage carriage shall immediately hand the same to the conductor, or if there be no conductor, to the driver, who shall within the period before stated, if it is not sooner claimed by the owner, deposit the property in the state in which it was found at any police station, and truly state the particulars of such finding.

32. During the period between one hour after sunset and one hour before sunrise no driver of a cab shall ply for hire unless the carriage under his charge be provided with a lamp properly trimmed and lighted. Such lamp shall be fixed outside the carriage in such a manner as to exhibit a white light to the front. If one lamp only be carried outside, it shall be fixed on the right or off side of the carriage.

33. The driver or conductor of a stage carriage or the driver of a cab shall not conceal or remove any plate affixed to such carriage in pursuance of this Order, or alter or obliterate any number or mark thereupon, or any mark placed on such carriage by the authority of the Commissioner.

34. The driver of a cab or a stage carriage shall drive carriages of such type only as are specified in the licence or in the endorsements made thereon by direction of the Commissioner.

35. A person under 20 years of age shall not act or be employed as an assistant to a conductor unless the vehicle be in charge of a fully licensed conductor.

36. A driver or conductor shall at all times during his employment and when appearing before a magistrate have in his possession a copy of the licence issued to him in pursuance of Part II. of this Order, and shall on demand by the officer in charge for the time being of any police station, or by any police officer specially authorised by the Commissioner, produce the same and allow the writing and photograph thereon to be inspected. If he neglects or fails to produce the copy as aforesaid, he shall be deemed to have committed a breach of this Order.

37. In pursuance of Section 10 of the Metropolitan Public Carriage Act, 1869, I hereby annex a penalty, not exceeding forty shillings, for the breach of any regulation or regulations in this Part of this Order.

## PART IV

*Cab Fares, Hiring, etc.*

38. Every motor cab must be fitted with a taximeter of a form approved by the Commissioner.

39. The hiring of a cab not fitted with a taximeter recording the fare by a combination of time and distance, shall be by distance or by time as the hirer may express at the commencement of the hiring; but, unless expressed to be by time, shall be taken to be by distance.

The fare for the hiring of a cab not fitted with such taximeter shall be in accordance with the scale set forth in Schedule I to this Order.

40. The fare for the hiring of a cab fitted with a taximeter, recording the same by a combination of time and distance, shall be in accordance with the scale set forth in Schedules K and L to this Order.

41. Whether the hiring be according to the scale laid down in Schedules I, K or L, the driver shall be entitled to charge, in addition to what is due to him for distance or time, or by the combination of both, as the case may be, the following extra payments in the following cases respectively:—

(1) If any luggage is carried outside the cab, he shall be entitled to an extra payment for every package carried outside, whatever may be the number of persons carried, in accordance with the scale set out in Schedules I, K and L respectively.

(2) If the carriage is licensed for more than two persons, and at any time during the hiring more than two persons are carried together, he shall be entitled to an extra payment of 6d. for every person above two so carried. Provided that one child, or if there be more than one, two children under the age of 10 years shall count as one person.

Provided it shall not be compulsory for the driver of a cab to record upon the taximeter the amount payable in respect of extra charges for luggage or additional persons.

42. If a cab not fitted with a taximeter, or fitted with a taximeter not recording the fare by a combination of time and distance, is hired by distance, and in the course of the hiring is at the request of the hirer made to wait, the driver shall be entitled to charge (in addition to what is due to him for distance) an extra payment according to the scale laid down in Schedule I, hereto annexed.

The driver shall not be entitled to receive any extra payment for waiting if such waiting has not amounted in the whole to fifteen minutes.

The driver shall not be entitled to any extra payment for waiting any less period than fifteen minutes (whether such less period be completed in one or in several stoppages) which is over and above any number of completed periods of fifteen minutes.

43. A driver of a cab shall not be compelled to drive for more than six miles; and, if hired by time, shall not be compelled to drive for more than one hour.

44.—(1) If any property found in a cab or stage carriage and brought to any police station by the driver, or by the driver or conductor thereof

respectively, under the provisions of the London Hackney Carriage Act, 1853, 16 & 17 Vict., cap. 33, s. 11, or of this Order, be not within three months claimed and proved to the satisfaction of the Commissioner to belong to the claimant, the Commissioner shall forthwith sell such property, and out of the proceeds shall award to such driver or conductor as follows:—

For property consisting of or comprising any gold or silver money, bank notes, jewellery, or watch, and being of less value than £10.	} A sum equal to 3s. in the £1 on the value of the property.
For property of any other kind, and being of less value than £10.	
For property of the value of £10, or upwards.	} Such a sum as the Commissioner shall deem reasonable.

Provided that the Commissioner may, if he thinks fit, at the expiration of that said period of three months, deliver the property to the driver or conductor instead of awarding to him a sum of money.

(2) If the property which shall have been so brought to a police station be claimed before the expiration of the said period of three months, and the claimant prove to the satisfaction of the Commissioner that he is entitled thereto, the same shall be delivered to him on payment by him of all expenses incurred, and of a remuneration to the driver or conductor. The amount of such remuneration shall be determined by the Commissioner with reference to the character and the value of the property in accordance with the foregoing section.

## PART V

### *Taximeters, Distance Recorders, etc.*

45. No taximeter shall be affixed to any cab unless the seal or mark approved by the Commissioner be affixed thereto. If a taximeter, not having the said seal or mark intact, be affixed to any cab, the licence of that carriage shall be liable to revocation or suspension.

46. Any proprietor, driver, or other person who shall break or in any way tamper with the seal or mark placed on the taximeter, or who shall, with intent to deceive, tamper with the taximeter, shall be deemed to have committed a breach of this Order.

47. The driver of every cab fitted with a taximeter recording the fare by a combination of time and distance shall, as soon as he is hired and no sooner, set the machine in motion, and upon the termination of the hiring shall forthwith stop the machine.

48. The driver of every cab fitted with a taximeter not recording the fare by a combination of time and distance, shall as soon as he is hired and no sooner set the machine at zero.

49. In pursuance of Section 10 of the Metropolitan Public Carriage Act, 1869, I hereby annex a penalty, not exceeding forty shillings, for any breach of this Part of this Order.

## PART VI

*General*

50. (1) In this Order the expression "cab" includes "Hackney carriage."

(2) The Order of the 30th December, 1907, made by the Secretary of State is hereby revoked, provided that every licence already granted in pursuance of the said Order shall be as valid as if it had been granted in pursuance of and in accordance with the provisions of this Order.

(3) This Order shall come into force on the 1st day of June, 1917.

*Geo. Cave,*

One of His Majesty's Principal  
Secretaries of State.

Whitehall,  
1st May, 1917.

## SCHEDULE A

"Metropolitan Public Carriage Act, 1869" (32 & 33 Vict., cap. 115). and the  
"London Cab and Stage Carriage Act, 1907" (7 Edw. VII., cap. 55).

## FORM OF APPLICATION FOR A CAB LICENCE.

I (a) \_\_\_\_\_  
residing at (b) \_\_\_\_\_

hereby apply for a Licence for a Carriage known as (c) \_\_\_\_\_  
and distinguished by (d) \_\_\_\_\_ for the purpose of  
plying for hire as a cab in the Metropolitan and City Police Districts, under  
the provisions of the above-mentioned Acts and of all Orders made in pursuance  
thereof.

I hereby declare that \*  $\left\{ \begin{array}{l} \text{I have never previously held a licence for a cab} \\ \text{or} \\ \text{no former licence of mine has ever been revoked} \end{array} \right.$   
or stage carriage, ) and that I have never been convicted of any crime,  
or suspended,† )  
or charged or summoned for any offence in London or elsewhere,‡ and that  
I am not under twenty-one years of age.

I further declare that I am in a position to fulfil, as Proprietor of Public  
Carriages, all reasonable obligations to the public, and that the declarations

\* Strike out as necessary.

† If a former licence has been revoked or suspended, particulars of such  
revocation or suspension are to be stated upon a separate form.

‡ If the applicant has been charged or summoned for any offence, the date  
of such is to be stated upon a separate form.

(a) Insert Christian Name and Surname in full. If a member of a Partnership, say Senior Partner of the Firm of \_\_\_\_\_. If a Company is the Applicant, say I (A.B. \_\_\_\_\_), and give official position in the Company.

(b) Insert the number of the House, the Street, and the Parish. If a Partnership, say where carrying on business. If a Company, say where Chief Office is.

(c) Insert the description of the Carriage.

(d) Insert marks, etc., by which the Carriage may be identified.

made with respect to this application are true to the best of my knowledge and belief.

Signature in full \_\_\_\_\_

Dated \_\_\_\_\_ 191—

To the Commissioner of Police of the Metropolis.

Having carefully considered the whole of the facts brought to my notice in connection with this application, I hereby \_\_\_\_\_ the same.

\_\_\_\_\_  
Commissioner of Police of the Metropolis.

#### SCHEDULE B

“ *Metropolitan Public Carriage Act, 1869* ” (32 & 33 Vict., cap. 115), and the  
“ *London Cab and Stage Carriage Act, 1907* ” (7 Edw. VII., cap. 55).

FORM OF APPLICATION FOR A METROPOLITAN STAGE CARRIAGE LICENCE.

I (a) \_\_\_\_\_  
residing at (b) \_\_\_\_\_

hereby apply for a Licence for a Carriage known as (c) \_\_\_\_\_  
and distinguished by (d) \_\_\_\_\_ for the purpose of  
plying for hire as a Stage Carriage under the provisions of the above-mentioned  
Acts, and of all Orders made in pursuance thereof.

I hereby declare that \* { I have never previously held a licence for a cab  
or  
no former licence of mine has ever been revoked  
or stage carriage, } and that I have never been convicted of any crime,  
or suspended,†  
or charged or summoned for any offence in London or elsewhere,‡ and that  
I am not under twenty-one years of age.

I further declare that I am in a position to fulfil, as Proprietor of Public  
Carriages, all reasonable obligations to the public, and that the declarations  
made with respect to this application are true to the best of my knowledge  
and belief.

Signature in full \_\_\_\_\_

Dated \_\_\_\_\_ 191—

To the Commissioner of Police of the Metropolis.

Having carefully considered the whole of the facts brought to my notice in  
connection with this application, I hereby \_\_\_\_\_  
the same.

\_\_\_\_\_  
Commissioner of Police of the Metropolis.

\* Strike out as necessary.

† If a former licence has been revoked or suspended, particulars of such  
revocation or suspension are to be stated upon a separate form.

‡ If the applicant has been charged or summoned for any offence, the date  
of such is to be stated upon a separate form.

(a) Insert Christian Name and Surname in full. If a member of a Partner-  
ship, say Senior Partner of the Firm of \_\_\_\_\_ . If a Company  
is the Applicant, say I (A.B. \_\_\_\_\_), and give official position in the  
Company.

(b) Insert the number of the House, the Street, and the Parish. If a Partner-  
ship, say where carrying on business. If a Company, say where Chief Office is

(c) Insert the description of the Carriage.

(d) Insert marks, etc., by which the Carriage may be identified.

## SCHEDULE C

" *Metropolitan Public Carriage Act, 1869* " (32 & 33 Vict., cap. 115).

## CERTIFICATE OF INSPECTOR OF PUBLIC CARRIAGES.

I certify that I have examined the Carriage submitted with this application which is distinguished by \_\_\_\_\_

and find the same \_\_\_\_\_ for public use.

It is constructed to carry \_\_\_\_\_ passengers inside and \_\_\_\_\_ passengers outside.

The number of the Plate affixed in accordance with the Order of the Secretary of State is \_\_\_\_\_.

Inspector of Public Carriages.

Dated \_\_\_\_\_

## SCHEDULE D

" *Metropolitan Public Carriage Act, 1869* " (32 & 33 Vict., cap. 115), and the  
" *London Cab and Stage Carriage Act, 1907* " (7 Edw. VII., cap. 55).

CAB LICENCE No. \_\_\_\_\_.

In consideration of the sum of Two Pounds paid to the Receiver for the Metropolitan Police District, I hereby license \_\_\_\_\_ residing at \_\_\_\_\_

to let the Carriage distinguished by the number given in the Margin hereof for the purpose of plying for hire as a Cab within the Metropolitan and City Police Districts for one year, unless this Licence shall be previously revoked or suspended, subject to the provisions of the Acts now in force as to Cabs, and subject to any Order made by His Majesty's Principal Secretary of State by virtue of the above-mentioned Acts.

And I certify with regard to the said Carriage that the number of persons which it is licensed to carry is (a) \_\_\_\_\_ inside, and (a) \_\_\_\_\_ outside.

By Order of His Majesty's Principal Secretary of State.

Dated \_\_\_\_\_

Commissioner of Police of the Metropolis.

## SCHEDULE E

" *Metropolitan Public Carriage Act, 1869* " (32 & 33 Vict., cap. 115), and the  
" *London Cab and Stage Carriage Act, 1907* " (7 Edw. VII., cap. 55).

STAGE CARRIAGE LICENCE No. \_\_\_\_\_.

In consideration of the sum of Two Pounds paid to the Receiver for the Metropolitan Police District, I hereby license \_\_\_\_\_ residing at \_\_\_\_\_

to use the Carriage distinguished by the number given in the Margin hereof

(a) Insert the Numbers respectively given in the Certificate of the Inspector of Public Carriages.

for the purpose of plying for hire as a Metropolitan Stage Carriage for one year, unless this Licence shall be previously revoked or suspended, subject to the provisions of the Acts now in force as to Metropolitan Stage Carriages, and subject to any Order made by His Majesty's Principal Secretary of State by virtue of the above-mentioned Acts.

And I certify with regard to the said Carriage that the number of persons which it is licensed to carry is (a) \_\_\_\_\_ inside, and (a) \_\_\_\_\_ outside.

By Order of His Majesty's Principal Secretary of State.

Dated \_\_\_\_\_

\_\_\_\_\_  
Commissioner of Police of the Metropolis.

## SCHEDULE F

### DRIVER OF METROPOLITAN STAGE CARRIAGES

(32 & 33 Vict., cap. 115)



### LICENCE

No. \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_\_  
To \_\_\_\_\_  
of \_\_\_\_\_

to act as driver of Metropolitan Stage Carriages \_\_\_\_\_

and none other for one year, unless this Licence is sooner revoked or suspended.

By Order of His Majesty's Principal Secretary of State.

\_\_\_\_\_  
Commissioner of Police of the Metropolis.

Metropolitan Police Office,  
New Scotland Yard.

This Licence is issued subject to the conditions of 32 & 33 Vict., cap. 115, and of all Orders made by His Majesty's Principal Secretary of State in pursuance thereof, and if not revoked, suspended, or renewed, must be delivered up at this Office on the \_\_\_\_\_ day of \_\_\_\_\_

(a) Insert the Numbers respectively given in the Certificate of the Inspector of Public Carriages.

Date.

Memorandum of Change of Abode.

Entered at the Office.

## Photograph of the Licensed Person.

Until a photograph is available the following particulars must be inserted here in lieu thereof :—

Age \_\_\_\_\_ Hair \_\_\_\_\_  
 Height \_\_\_\_\_ Complexion \_\_\_\_\_  
 Eyes \_\_\_\_\_

## Signature of the Licensed Person.

Entries as required by the Act 6 & 7 Vict., cap. 86, sect. 8, and by the 32 & 33 Vict., cap. 115, and the Orders made in pursuance thereof, incorporating the said requirements, are to be made by Proprietors in the respective columns beneath :—

Name of Proprietor.

Address  
of Proprietor.Date when within-named  
Licensed person entered  
Proprietor's Service.Date of  
quitting Service.

## SCHEDULE G

## CONDUCTOR OF METROPOLITAN STAGE CARRIAGES

(32 &amp; 33 Vict., cap. 115)



## LICENCE

No. \_\_\_\_\_

Dated the \_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_\_

To \_\_\_\_\_  
of \_\_\_\_\_

to act as Conductor of Metropolitan Stage Carriages \_\_\_\_\_

and none other for one year, unless this Licence is sooner revoked or suspended.

By Order of His Majesty's Principal Secretary of State.

Commissioner of Police of the Metropolis.

Metropolitan Police Office,  
New Scotland Yard.

This Licence is issued subject to the conditions of 32 & 33 Vict., cap. 115, and of all Orders made by His Majesty's Principal Secretary of State in pursuance thereof, and if not revoked, suspended, or renewed, must be delivered up at this Office on the \_\_\_\_\_ day of \_\_\_\_\_.

Date.	Memorandum of Change of Abode.	Entered at the Office.

Photograph of the Licensed Person.

Until a photograph is available the following particulars must be inserted in lieu thereof :—

Age _____	Hair _____
Height _____	Complexion _____
Eyes _____	

Signature of the Licensed Person.

Entries as required by the Act 6 & 7 Vict., cap. 86, sect. 8, and by the 32 & 33 Vict., cap. 115, and the Orders made in pursuance thereof, incorporating the said requirements, are to be made by Proprietors in the respective columns beneath :—

Name of Proprietor.	Address of Proprietor.	Date when within-named Licensed person entered Proprietor's Service.	Date of quitting Service.
---------------------	---------------------------	--	------------------------------

SCHEDULE H  
DRIVER OF CABS  
(32 & 33 Vict., cap. 115)



## LICENCE

No. \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_\_  
To \_\_\_\_\_  
of \_\_\_\_\_  
to act as driver of Cabs \_\_\_\_\_

and none other for one year, unless this Licence is sooner revoked or suspended.

By Order of His Majesty's Principal Secretary of State.

Commissioner of Police of the Metropolis.

Metropolitan Police Office,  
New Scotland Yard.

This Licence is issued subject to the conditions of 32 & 33 Vict., cap. 115. and of all Orders made by His Majesty's Principal Secretary of State in pursuance thereof, and if not revoked, suspended, or renewed, must be delivered up at this Office on the \_\_\_\_\_ day of \_\_\_\_\_.

Date.

Memorandum of Change of Abode.

Entered at the Office.

## Photograph of the Licensed Person.

Until a photograph is available the following particulars must be inserted here in lieu thereof :—

Age _____	Hair _____
Height _____	Complexion _____
Eyes _____	

Signature of the Licensed Person.

Entries as required by the Act 6 & 7 Vict., cap. 86, sect. 8, and by the 32 & 33 Vict., cap. 115, and the Orders made in pursuance thereof, incorporating the said requirements, are to be made by Proprietors in the respective columns beneath :—

Name of Proprietor.	Address of Proprietor	Date when within-named Licensed person entered Proprietor's Service.	Date of quitting Service.

## SCHEDULE I

The fare payable for the hiring of a Cab without a Taximeter which records the fare by a combination of time and distance shall be according to the following scale ; provided always that the driver of such Cab may, if he so desires, notify, by means to be approved by the Commissioner, that he is willing to accept a fare of 6*d.* for any journey not exceeding a mile.

(1) If hired and discharged within the four-mile circle :—

(a) If hired by distance—	<i>s.</i>	<i>d.</i>
Not exceeding two miles . . . . .	1	0
Exceeding two miles—		
For each mile or part of a mile . . . . .	0	6

(b) If hired by time—	Hansom.	Four-wheel.
	<i>s.</i>	<i>d.</i>
For one hour or less . . . . .	2	6
Above one hour—		
For every fifteen minutes of the whole time . . . . .	0	8
For any less period . . . . .	0	8

(2) If hired beyond the four-mile circle, wherever discharged :—

(a) If hired by distance—	<i>s.</i>	<i>d.</i>
Not exceeding one mile . . . . .	1	0
Exceeding one mile—		
For each mile or part of a mile . . . . .	1	0
(b) If hired by time, whether a four-wheel or a hansom—		
For one hour or less . . . . .	2	6
Above one hour—		
For every fifteen minutes of the whole time . . . . .	0	8
For any less period . . . . .	0	8

(3) If hired within but discharged without the four-mile circle :—

(a) If hired by distance—	<i>s. d.</i>
Not exceeding one mile . . . . .	1 0
Exceeding one mile—	
For each mile ended within the circle . . . . .	0 6
For each mile ended without the circle . . . . .	1 0
For any part of a mile ended without the circle over each completed mile . . . . .	1 0
(b) If hired by time, whether a hansom or a four-wheel—	
For one hour or less . . . . .	2 6
Above one hour—	
For every fifteen minutes of the whole time . . . . .	0 8
For any less period . . . . .	0 8

In addition to the above the driver, whether he be hired by distance or by time, or whether within or without the radius, may be entitled to charge the following extra payments :—

(1) For luggage :—	<i>s. d.</i>
For each bicycle, child's mailcart, or perambulator . . . . .	0 6
For each other package carried outside . . . . .	0 2

NOTE.—Luggage carried on the footboard of a hansom in such a manner that the doors do not close over it, is deemed to be outside.

(2) For extra persons :—	
When licensed to carry more than two persons—	<i>s. d.</i>
For each additional person above two, the whole journey . . . . .	0 6

Provided that one child, or if there be more than one, two children under the age of ten years shall count as one person.

(3) Waiting :—	
When hired by distance and at the request of the hirer made to wait—	
For each fifteen minutes completed, whether in one stoppage or in several stoppages—	<i>s. d.</i>
For a four-wheel cab hired within the four-mile circle . . . . .	0 6
For a hansom wherever hired, and a four-wheel cab hired without the circle . . . . .	0 8

### SCHEDULE K

The fare payable for the hiring of a Motor Cab, fitted with a Taximeter recording the Fare by a combination of Time and Distance, shall be according to the following scale :—

(a) For a distance not exceeding one mile, or for time not exceeding ten minutes . . . . .	<i>s. d.</i>
	0 8
(b) Exceeding one mile or ten minutes :—	
(1) For each quarter of a mile or time not exceeding two and a half minutes . . . . .	0 2
(2) For any less distance or time . . . . .	0 2

In addition to the above the driver may be entitled to charge the following extra payments :—

(1) For luggage—	<i>s. d.</i>
For each bicycle, child's mailcart, or perambulator . . . . .	0 6
For each other package carried outside . . . . .	0 2

NOTE.—Luggage carried on the footboard of a hansom pattern cab so that the doors will not close over it, is deemed to be outside.

(2) Extra persons :—	
When licensed to carry more than two persons—	<i>s. d.</i>
For each additional person beyond two for the whole journey . . . . .	0 6

Provided that one child, or if there be more than one, two children under the age of ten years shall count as one person.

## SCHEDULE L

The fare payable for the hiring of a Horse-drawn Cab fitted with a Taximeter, recording the Fare by a combination of Time and Distance, shall be according to the following scale :—

(a) For a distance not exceeding one mile, or time not exceeding twelve minutes	<i>s. d.</i>
	0 6
(b) Exceeding one mile or twelve minutes—	
(1) For each half of a mile, or time not exceeding six minutes	0 3
(2) For any less distance or time	0 3

In addition to the above the driver may be entitled to charge the following extra payments :—

(1) For luggage—	<i>s. d.</i>
For each bicycle, child's mailcart, or perambulator	0 6
For each other package carried outside	0 2

NOTE.—Luggage carried on the footboard of a hansom so that the doors will not close over it, is deemed to be outside.

(2) Extra persons :—	
When licensed to carry more than two persons—	<i>s. d.</i>
For each additional person beyond two, for the whole journey	0 6

Provided that one child, or if there be more than one, two children under the age of ten years shall count as one person.

## SCHEDULE M

## DRIVER OR CONDUCTOR OF METROPOLITAN STAGE CARRIAGES

(32 & 33 Vict., cap. 115)



## LICENCE

No \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred and \_\_\_\_  
 To \_\_\_\_\_  
 of \_\_\_\_\_

to act as driver or conductor of Metropolitan Stage Carriages \_\_\_\_\_

and none other for one year, unless this Licence is sooner revoked or suspended.

By Order of His Majesty's Principal Secretary of State.

Commissioner of Police of the Metropolis.

Metropolitan Police Office,  
New Scotland Yard.

This Licence is issued subject to the conditions of 32 & 33 Vict., cap. 115, and of all Orders made by His Majesty's Principal Secretary of State in pursuance thereof, and, if not revoked, suspended, or renewed, must be delivered up at this Office on the \_\_\_\_\_ day of \_\_\_\_\_.

Date.	Memorandum of Change of Abode.	Entered at the Office.

#### Photograph of the Licensed Person.

Until a photograph is available the following particulars must be inserted here in lieu thereof :—

Age _____	Hair _____
Height _____	Complexion _____
Eyes _____	

Signature of the Licensed Person.

Entries as required by the Act 6 & 7 Vict., cap. 86, sect. 8, and by the 32 & 33 Vict., cap. 115, and the Orders made in pursuance thereof, incorporating the said requirements, are to be made by Proprietors in the respective columns beneath :—

Name of Proprietor.	Address of Proprietor.	Date when within-named Licensed person entered Proprietor's Service.	Date of quitting Service.

## SCHEDULE N

ASSISTANT CONDUCTOR OF METROPOLITAN STAGE  
CARRIAGES

(32 &amp; 33 Vict., cap. 115)



## LICENCE

No. \_\_\_\_\_

Dated the \_\_\_\_\_ day of \_\_\_\_\_, one thousand nine hundred  
and \_\_\_\_\_.

To \_\_\_\_\_  
of \_\_\_\_\_

to act as Assistant to Conductor of Metropolitan Stage Carriages \_\_\_\_\_  
and in none other capacity for one year, unless this licence is sooner revoked  
or suspended.

By Order of His Majesty's Principal Secretary of State.

\_\_\_\_\_  
Commissioner of Police of the Metropolis.

Metropolitan Police Office,  
New Scotland Yard.

This Licence is issued subject to the conditions of 32 & 33 Vict., cap. 115,  
and of all Orders made by His Majesty's Principal Secretary of State in  
pursuance thereof, and if not revoked, suspended, or renewed, must be  
delivered up at this Office on the \_\_\_\_\_ day of \_\_\_\_\_.

Date.	Memorandum of Change of Abode.	Entered at the Office.

## Photograph of the Licensed Person.

Until a photograph is available the following particulars must be inserted here in lieu thereof :—

Age \_\_\_\_\_ Hair \_\_\_\_\_  
 Height \_\_\_\_\_ Complexion \_\_\_\_\_  
 Eyes \_\_\_\_\_

Signature of the Licensed Person.

Entries as required by the Act 6 & 7 Vict., cap. 86, sect. 8, and by the 32 & 33 Vict., cap. 115, and the Orders made in pursuance thereof, incorporating the said requirements, are to be made by Proprietors in the respective columns beneath :—

Name of Proprietor.	Address of Proprietor.	Date when within-named Licensed person entered Proprietor's Service.	Date of quitting Service.

## THE FINANCE ACT, 1920 (a)

(10 & 11 GEO. 5, c. 18)

**13. (b) *Duty on licences for mechanically propelled vehicles.***

(1) Any excise duty which is chargeable at the commencement of this Act in respect of any vehicle which is chargeable with duty as a mechanically propelled vehicle under this section shall cease to be chargeable as from the first day of January nineteen hundred and twenty-one, and on and after that date there shall be charged levied and paid in Great Britain and Ireland in respect of mechanically propelled vehicles used on public roads duties of excise at the rates specified in the Second Schedule to this Act.

(2) The duties charged under this section shall be paid annually upon licences to be taken out by the person keeping the vehicle.

Provided that—

(a) (c).

(b) where a person commences to keep or use (b) a tramcar on or

(a) See also Roads Act, 1920, ss. 7 and 8, *post*, p. 353, and Finance Act, 1921, s. 22, *post*, p. 391.

(b) As amended by Finance Act, 1921, s. 22, *q.v. post*, p. 391.

(c) Repealed by Finance Act, 1921, s. 22, *post*, p. 391.

after the first day of October in any year he shall on delivering a declaration in writing signed by him to that effect be entitled to take out a licence for that vehicle on payment of one-half of the full annual duty.

(3) The unit of horse-power for the purpose of any rate of duty under the Second Schedule to this Act shall be calculated in accordance with regulations made by the Minister of Transport for the purpose.

(4) No duty shall be payable under this section in respect of fire-engines, vehicles kept by a local authority while they are used for the purposes of their fire brigade service, ambulances, or road rollers.

(5) The Minister of Transport may make regulations providing for the total or partial exemption for a limited period from the duty payable under this section of any vehicle brought into the United Kingdom by persons making only a temporary stay in the United Kingdom.

## SECOND SCHEDULE

### DUTIES ON MECHANICALLY PROPELLED VEHICLES

Description of Vehicle.	Rate of Duty.	
1. Cycles (including motor scooters and cycles with an attachment for propelling the same by mechanical power) not exceeding 8 cwt. in weight unladen :—		
Bicycles—		
Not exceeding 200 lb. in weight unladen . . . . .	£1	10s.
Exceeding 200 lb. in weight unladen . . . . .	£3	
Bicycles, if used for drawing a trailer or side-car, an additional sum of £1.		
Tricycles . . . . .	£4	
2. Vehicles (including cycles with an attachment for propelling the same by mechanical power) not exceeding 5 cwt. in weight unladen adapted and used for invalids . . . . .		
3. Vehicles being hackney carriages as defined in section four of the Customs and Inland Revenue Act, 1888 :—		
	In the Metropolitan Police area and such other districts as the Minister of Transport may fix.	In all other districts.
Tramcars . . . . .	15s.	15s.
Other vehicles :		
Seating not more than 6 persons . . . . .	£15	£12
Seating more than 6 but not more than 14 persons . . . . .	£30	£24
Seating more than 14 but not more than 20 persons . . . . .	£45	£36
Seating more than 20 but not more than 26 persons . . . . .	£60	£48
Seating more than 26 but not more than 32 persons . . . . .	£72	£60
Seating more than 32 persons . . . . .	£84	£70

In this paragraph the number of persons mentioned does not include the driver of the vehicle.

4. Vehicles of the following descriptions used solely in the course of trade, or in agriculture (that is to say) :—

Locomotive ploughing engines, tractors, agricultural tractors, and other agricultural engines, not being engines or

Description of Vehicle.	Rate of Duty.
tractors used for hauling on roads any objects except their own necessary gear, threshing appliances, farming implements, or supplies of fuel, or water required for the purposes of the vehicle or for agricultural purposes . . . . .	5s.
Road locomotives and agricultural engines, other than such engines in respect of which a duty of 5s. is chargeable, or which are used for haulage solely in connection with agriculture—	
Not exceeding 8 tons in weight unladen . . . . .	£25
Exceeding 8 tons but not exceeding 12 tons in weight unladen . . . . .	£28
Exceeding 12 tons in weight unladen . . . . .	£30
Tractors, agricultural tractors, and agricultural engines, other than such tractors or engines in respect of which a duty of 5s. is chargeable, used for haulage solely in connection with agriculture—	
Not exceeding 5 tons in weight unladen . . . . .	£6
Exceeding 5 tons in weight unladen . . . . .	£10
Tractors of any other description . . . . .	£21
5. Vehicles (including tricycles weighing more than 8 cwt. unladen) constructed or adapted for use and used solely for the conveyance of goods in the course of trade:—	
Being vehicles which are electrically propelled and which do not exceed 25 cwt. in weight unladen . . . . .	£6
Being vehicles other than such electrically propelled vehicles as aforesaid.	
Not exceeding 12 cwt. in weight unladen . . . . .	£10
Exceeding 12 cwt. but not exceeding 1 ton in weight unladen . . . . .	£16
Exceeding 1 ton but not exceeding 2 tons in weight unladen . . . . .	£21
Exceeding 2 tons but not exceeding 3 tons in weight unladen . . . . .	£25
Exceeding 3 tons but not exceeding 4 tons in weight unladen . . . . .	£28
Exceeding 4 tons in weight unladen . . . . .	£30
With an additional duty, in any case if used for drawing a trailer, of . . . . .	£2
6. Any vehicle other than those charged with duty under the foregoing provisions of this schedule:—	
Not exceeding 6 horse-power or electrically propelled . . . . .	£6
Exceeding 6 horse-power. . . . .	£1 for each unit or part of a unit of horse-power

If any person proves to the satisfaction of the authority charged with levying the duty that he has paid in respect of any vehicle the duty chargeable under this paragraph, and that the engine of the vehicle was constructed before the first day of January, nineteen hundred and thirteen, he shall be entitled to repayment of twenty-five per cent. of the duty paid.

## ROADS ACT, 1920

10 &amp; 11 GEO. 5, CH. 72

*AN ACT to make provision for the collection and application of the excise duties on mechanically propelled vehicles and on carriages; to amend the Finance Act, 1920, as respects such duties; and to amend the Motor Car Acts, 1896 and 1903, and the Development and Road Improvement Funds Act, 1909; and to make other provision with respect to roads and vehicles used on roads, and for purposes connected therewith.*

[23rd December, 1920.]

BE it enacted by the King's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows :—

1. *Lying by county councils of duties on mechanically propelled vehicles and other carriages.*] (1) The duties on licences for mechanically propelled vehicles (in this Act referred to as "vehicles"), imposed by section thirteen of the Finance Act, 1920, as amended by this Act, and the excise duties on licences for carriages imposed by section four of the Customs and Inland Revenue Act, 1888, shall, as from the first day of January, nineteen hundred and twenty-one, be levied by county councils in accordance with provisions to be made for the purpose by Order in Council.

(2) Subject to the provisions of this Act and of any Order in Council made under this section, every county council and their officers shall, as from the said first day of January, nineteen hundred and twenty-one, have within their county for the purpose of levying the duties aforesaid (in this Act referred to as "the said duties"), the same powers, duties, and liabilities as the Commissioners of Customs and Excise and their officers have with respect to duties of excise, and to the issue and cancellation of licences on which duties of excise are imposed, and other matters under the Acts relating to duties of excise and excise licences, and all enactments relating to those duties and to punishments and penalties in connection therewith shall apply accordingly.

(3) Every county council shall, subject to the provisions of any Order in Council made under this section, have as respects the said duties and licences the powers given by the said Acts to the Treasury for the restoration of any forfeiture and the mitigation or remission of any penalty or any part thereof.

(4) The duties levied by a county council under this section shall be paid into the Exchequer in such manner and in accordance with such directions as may be contained in any Order in Council made under this section.

(5) Provision may be made by Order in Council under this section for enabling the Minister to give such directions to county councils as he thinks necessary for securing uniformity of administration and otherwise for carrying the provisions of this Act and of any such Order into effect, and it shall be the duty of county councils to comply with any directions so given.

(6) An Order in Council made under this section may be revoked, varied, or amended, by a subsequent Order so made.

**2. *Payment out of Consolidated Fund to local taxation accounts and Road Fund.***] (1) There shall be charged on and issued out of the Consolidated Fund or the growing produce thereof, in accordance with the directions of the Treasury, a sum equal to the proceeds of the said duties and of all other sums paid into the Exchequer under this Act.

(2) Out of the sum to be issued out of the Consolidated Fund under this section there shall be paid in every year to the Local Taxation Account and the Local Taxation (Scotland) Account the sum of five hundred and thirty-six thousand, nine hundred and fifty-four pounds, eight shillings, and the sum of sixty-four thousand and one pounds, seventeen shillings respectively.

The sum so paid into the Local Taxation Account shall be applied in paying to the councils of counties in England and Wales sums equal to the amounts certified by the Minister of Health to have been collected by those councils respectively during the year ending on the thirty-first day of March, nineteen hundred and nine, in respect of the duties on carriage licences, and the sum so paid into the Local Taxation (Scotland) Account shall be distributed in the same manner as the proceeds of the duties on carriage licences collected in Scotland were distributed in the financial year ending the thirty-first day of March, nineteen hundred and twenty.

The Treasury, in conjunction as respects England and Wales with the Minister of Health, and as respects Scotland with the Secretary for Scotland, may make such adjustments in respect of the payments to be made under the foregoing provision for the financial year ending on the thirty-first day of March, nineteen hundred and twenty-one, as are necessary for securing that local authorities shall, in respect of that year, receive the aforesaid amounts in respect of the duties on carriage licences.

(3) The balance of the sum to be issued out of the Consolidated Fund under this section, after deducting the sums to be paid to the local taxation accounts under this section, shall be paid into the Road Fund to be established under this Act.

**3. *Establishment of Road Fund.***] (1) There shall be established for the purposes of this Act, in accordance with regulations to be made by the Treasury for the purpose, a fund to be called the Road Fund, and, subject to such regulations as may be made by the Treasury with respect to accounts and investments, the Road Fund shall be subject to the control and management of the Minister.

(2) There shall be transferred or paid to the Road Fund all moneys which on the first day of January, nineteen hundred and twenty-one, are standing to the account of the road improvement grant or are payable to that account, and all investments representing accumulations of money standing to the account of the road improvement grant shall be transferred to such persons as the Treasury may direct, and shall, upon a direction in that behalf being given by the Treasury, by virtue of this Act vest in the persons specified in the direction, and shall, subject to the provisions of any regulations made by the Treasury under the foregoing subsection, be held by those persons for the purposes of the Road Fund.

(3) Any sums received by the Minister under Part II. of the Development and Road Improvement Funds Act, 1909, shall be paid by the Minister into the Road Fund in such manner as the Treasury may direct.

(4) There shall be paid out of the Road Fund in every year :—

- (a) to every county council by whom the said duties are levied an amount equal to the expenses properly incurred by that council in accordance with directions issued by the Minister with the approval of the Treasury in or in connection with the levying of the duties, the registration of vehicles, and the issuing of licences to drivers of vehicles, and such directions may provide for advances being made to county councils from time to time as may be necessary during the year on account of any expenses so incurred by them as aforesaid :
- (b) to every local or police authority such sum as the Minister, with the approval of the Treasury, may determine to represent the amount which would, if this Act had not been passed, have been received by the authority on account of fees or charges for the licensing of mechanically propelled hackney carriages :
- (c) such part of the expenses incurred by and in connection with the Roads Department of the Ministry of Transport, including the salaries of the staff of that Department, as the Minister may from time to time, with the approval of the Treasury, determine to be expenses so incurred in the administration of this Act :
- (d) any sums paid by the Minister in respect of the salaries and establishment charges of engineers or surveyors to local authorities under subsection (2) of section seventeen of the Ministry of Transport Act, 1919 :
- (e) all expenses incurred by any other Government Department in connection with the collection of the said duties or otherwise in the administration of this Act :

and, subject to payment of the sums aforesaid and of any sums to be repaid to a local or police authority out of the Road Fund under any other provision of this Act, the moneys standing to the credit of the Road Fund shall be applied by the Minister for the purposes of Part II. of the Development and Road Improvement Funds Act, 1909, as amended by this Act :

Provided that the sums applied out of the Road Fund towards the construction of new roads, or the acquisition of land, or in respect of any loans raised for any such purpose, shall not in any year exceed one-third of the estimated amount to be paid into the Road Fund in that year, after deducting from that amount the estimated amount of the sums to be paid out of the Road Fund under the provisions of this subsection.

(5) The Minister shall cause an account to be prepared and transmitted to the Comptroller and Auditor General for examination on or before the first day of October in every year, showing the receipts into and issues out of the Road Fund in the financial year ending on the thirty-first day of March preceding, and the Comptroller and Auditor General shall certify and report on the same, and the account and report shall be laid before Parliament on or before the thirty-first day of January in the following year if Parliament be then sitting, and if Parliament be not then sitting, within one week after the next meeting of Parliament.

(6) The Minister shall make an annual report to Parliament of his proceedings under this Act and under Part II. of the Development and Road Improvement Funds Act, 1909, as amended by this Act.

4. Sections seven, twelve and fourteen of the Development and Road Improvement Funds Act, 1909, shall cease to have effect, and the amend-

ments specified in the second column of the First Schedule to this Act shall be made in the provisions of that Act specified in the first column of that schedule.

5. *Provisions as to licences.*] (1) Every person applying for a licence under section thirteen of the Finance Act, 1920, as amended by this Act, or under section four of the Customs and Inland Revenue Act, 1888, shall make such a declaration and furnish such particulars with respect to the vehicle or carriage for which the licence is to be taken out or otherwise as may be prescribed.

(2) Subject to the provisions of this Act as to general licences, every licence issued under section thirteen of the Finance Act, 1920, as amended by this Act, shall be issued in respect of the vehicle specified in the application for the licence and shall not entitle the person to whom it is issued to use any other vehicle, and a county council shall not be required to issue any licence for which application is made unless they are satisfied that the licence applied for is the appropriate licence for the vehicle specified in the application, and, in the case of an application for a licence for a vehicle purporting to be the first application for a licence in respect of the vehicle, that a licence has not previously been issued in respect of that vehicle.

(3) Where any vehicle in respect of which any such licence as aforesaid has been issued is altered after the licence has been issued in such manner as to cause the vehicle to become a vehicle in respect of which a licence at a higher rate of duty or a licence of a different class is required, the licence shall become void, but the holder of the licence shall, on surrendering the same and furnishing the prescribed particulars, be entitled to receive a new licence in respect of the vehicle, to have effect for the period for which the surrendered licence would, if it had not been surrendered, have remained in force on payment of such amount, if any, as represents the difference between the amount payable on the new licence and the amount paid on the surrendered licence.

(4) Notwithstanding anything in the provisions of the Acts relating to Excise licences and without prejudice to those provisions, any such licence as aforesaid may be transferred in the prescribed manner.

(5) Subject as may be prescribed, every such licence as aforesaid shall, in the prescribed manner, be fixed to and exhibited on the vehicle in respect of which it is issued.

(6) Sections twenty and twenty-one of the Revenue Act, 1869, shall, subject to such modifications and exceptions as may be prescribed, apply to the declaration to be prescribed under this section, and sections twenty-two and twenty-three of the said Act shall have effect as though references to the declaration to be so prescribed as aforesaid were therein substituted in relation to carriages for references to the declaration under that Act.

6. *Registration and identification marks.*] (1) On the first issue by a county council of a licence under section thirteen of the Finance Act, 1920, as amended by this Act, for a vehicle it shall be the duty of the council to register the vehicle in the prescribed manner without any further application in that behalf by the person taking out the licence, and, subject to the provisions of this section, every such council shall assign a separate number to every vehicle registered with them, and a mark indicating the registered number of the vehicle and the council

with which the vehicle is registered shall be fixed on the vehicle or on any other vehicle drawn by that vehicle or on both in the prescribed manner :

Provided that any number which has been assigned to a motor car under section two of the Motor Car Act, 1903, and which is the registered number of that car on the first day of January, nineteen hundred and twenty-one, shall be treated as having been assigned to the car under the provisions of this section and no new number shall be assigned to such a car.

(2) If the mark to be fixed in accordance with this Act is not so fixed, or if, being so fixed, it is in any way obscured or rendered or allowed to become not easily distinguishable, the person driving the vehicle shall for each offence be liable on summary conviction in respect of the first offence to a penalty not exceeding twenty pounds, and in respect of a second or subsequent offence to a penalty not exceeding fifty pounds :

Provided that a person charged under this section with obscuring a mark or rendering or allowing it to become not easily distinguishable, shall not be liable to be convicted on the charge if he proves that he has taken all steps reasonably practicable to prevent the mark being obscured or rendered not easily distinguishable.

A person shall not be liable to a penalty under this section if he proves that he has had no reasonable opportunity of registering the vehicle in accordance with this section, and that the vehicle is being driven on a public road for the purpose of being so registered.

7. (1) References in section ten of the Motor Car Act, 1903, to motor cars shall be deemed to include references to vehicles within the meaning of this Act.

(2) In paragraph (c) of subsection (1) of section four of the Motor Car Act, 1903, the words "may cause" shall be substituted for the words "shall cause," and the words "where any particulars are so endorsed" shall be substituted for the word "also," and in subsection (2) of that section the words "if so required by the convicting court" shall be inserted after the word "shall."

(3) Where a person who is the holder of a licence which has been endorsed under section four of the Motor Car Act, 1903, or under that section as amended by this Act, has not during a continuous period of not less than three years had any conviction so endorsed on the licence, he shall be entitled, either on applying for a renewal of the licence or, subject to payment of a fee of five shillings, at any time, to have issued to him a new licence free from endorsements.

(4) The Minister may, by order on the application of any county council after holding a public inquiry, prohibit or restrict, subject to such exceptions or conditions as to occasional user or otherwise as may be specified in the order, the driving of vehicles of any specified class on any specified highway within the area of the council in any case in which it appears to him, as the result of the inquiry, to be proved that a vehicle of that class cannot be used on that highway without endangering the safety of the vehicle or the persons therein or of other traffic using the highway, or that the highway is unsuitable for use by a vehicle of that class :

Provided that:—

(a) the Minister may at any time, after giving notice in that behalf to the county council on whose application the order was made,

and after considering any objections made by that council, but without holding any public inquiry, revoke, vary, or amend any order made under this subsection ; and

- (b) every order made under this subsection shall require the authority responsible for the maintenance of the highway to which the order relates to give in the prescribed manner notice of the fact that an order has been made under this subsection with respect to that highway.

The provisions contained in the Second Schedule to this Act shall have effect with respect to applications and inquiries under this subsection.

The foregoing provisions of this subsection shall be substituted for section eight of the Motor Car Act, 1903.

(5) The power of the Minister under subsection (2) of section twelve of the Motor Car Act, 1903, to make regulations as to the speed of motor cars exceeding two tons in weight unladen shall include power to make regulations as to the speed on any road of any agricultural tractor whether it exceeds two tons in weight unladen or not.

(6) For the purposes of the Motor Car Acts, 1896 and 1903, and of any other enactments relating to the use of vehicles on roads, the weight unladen of any vehicle shall be taken to be the weight of the vehicle inclusive of the body and all parts (the heavier being taken where alternative bodies or parts are used) which are necessary to or ordinarily used with the vehicle when working on a road, but exclusive of the weight of water, fuel or accumulators (other than boilers) used for the purpose of propulsion and of loose tools or loose equipment :

Provided that, in the case of a vehicle which weighs more than seven and a quarter tons and is specially constructed so that all or part of the superstructure is a permanent, or essentially permanent, fixture and the axle weights of which do not exceed the maximum axle weights prescribed under the Motor Car Act, 1903, or any Act amending that Act, the weight unladen of the vehicle shall be deemed to be seven and a quarter tons.

(7) All sums received by a county council by way of fees for licences granted under section three of the Motor Car Act, 1903, and all penalties recovered in respect of offences under the Motor Car Acts, 1896 and 1903, shall be paid into the Exchequer in such manner and in accordance with such directions as may be contained in any Order in Council made under this Act.

(8) The Motor Car (International Circulation) Act, 1909, shall have effect as though the references therein to the Motor Car Act, 1903, included references to this Act.

8. (1) For the purpose of section thirteen of the Finance Act, 1920, and the Second Schedule to that Act, the expression " vehicle " shall not include any vehicle used on tram lines except a tramcar used for the conveyance of passengers.

(2) For the purposes of paragraph 5 of the Second Schedule to the Finance Act, 1920, a vehicle shall not be deemed to be used otherwise than solely for the conveyance of goods in the course of trade by reason only that it is used for the conveyance in the course of their employment of persons who are in the employment of the person keeping the vehicle.

(3) Where a licence has been taken out as for a vehicle to be used solely for a certain purpose and the vehicle is at any time during the period for which the licence is in force used for some other purpose, the

person so using the vehicle shall, if the rate of duty chargeable in respect of a licence for a vehicle used for that other purpose is higher than the rate chargeable in respect of the licence held by him, be liable to an excise penalty of an amount equal to three times the difference between the duty actually paid on the licence and the duty payable on a licence appropriate to a vehicle used for that other purpose or twenty pounds, whichever amount is the greater.

(4) Where a hackney carriage is a vehicle of the class mentioned in paragraph 1 or paragraph 2 of the Second Schedule to the Finance Act, 1920, it shall be charged with duty under paragraph 1 or paragraph 2, as the case may be, and not under paragraph 3 of that Schedule.

(5) The expression "weight unladen" in the Second Schedule to the Finance Act, 1920, shall have the same meaning as in the Motor Car Acts, 1896 and 1903, as amended by this Act.

**9. Provision as to licence duty in case of manufacturers or dealers in mechanically propelled vehicles.]** (1) If any person being a manufacturer of or dealer in vehicles makes, in the prescribed manner, an application in that behalf to the council of the county in which his business premises are situate, that he may be entitled, in lieu of taking out a licence for each vehicle kept by him at the appropriate rate of duty chargeable under the Second Schedule to the Finance Act, 1920, to take out a general licence in respect of all vehicles used by him the council may, subject to the prescribed conditions, issue to him such a licence on payment of duty at the yearly rate of ten pounds, or, in the case of a licence to be used only on vehicles chargeable with duty under paragraph 1 or paragraph 2 of the said Schedule, at the yearly rate of thirty shillings:

Provided that—

- (a) licences under this section at the yearly rate of ten pounds may be taken for one quarter of the year only beginning the first day of January, the twenty-fifth day of March, the first day of July, or the first day of October, and in the case of any licence so taken out the duty shall be thirty per cent. of the full annual duty; and
- (b) the holder of any licence issued under this section shall not be entitled by virtue of that licence to use more than one vehicle at any one time, except in the case of a vehicle drawing a trailer and used for the prescribed purpose, or to use any vehicle for any purpose other than such purposes as may be prescribed; and
- (c) nothing in this section shall operate to prevent a person entitled to take out a general licence from holding two or more such licences.

(2) Provision may be made by regulations under this Act for assigning a general identification mark to a person holding any licence issued under this section.

(3) If any person is aggrieved by the refusal of a council to issue a general licence under this section, he may appeal to the Minister, and the Minister shall, on any such appeal, make such order in the matter as he thinks just, and the council shall comply with any order so made.

An order made by the Minister under this provision shall be final and not subject to appeal to any court, and shall, on the application of the Minister, be enforceable by writ of mandamus.

**10. Power to modify or determine charges for use of vehicles on roads.]** Where any persons are, whether by virtue of any Act or otherwise, liable

to pay any sums, by way of mileage charges or other annual payments, in respect of the use of any road by their vehicles, the Minister may, on an application by those persons in that behalf, and after considering any objections made by any person interested, suspend, modify or determine the liability to make the payment, as he shall think fit.

**11. *Special provisions as to hackney carriages.***] (1) There shall, subject to the prescribed exceptions, be exhibited on every vehicle which is chargeable with duty as a hackney carriage, in conjunction with the mark required under this Act to be fixed on the vehicle indicating the registered number of the vehicle, a distinctive sign indicating that the vehicle is a hackney carriage and the number of persons which the vehicle seats, and regulations made by the Minister under this Act shall provide for the sign to be so exhibited.

The penalties imposed by this Act in relation to the identification mark to be fixed to a vehicle shall apply to the sign to be exhibited under this provision as they apply to the identification mark so to be fixed.

(2) Where a licence has been taken out in respect of any vehicle at the rate of duty appropriate to a hackney carriage seating not more than a certain number of persons, the person keeping the vehicle shall, if it is used on any occasion for the purpose of seating more persons than the number aforesaid, be liable to an excise penalty of an amount equal to three times the difference between the duty actually paid on the licence and the duty payable on a licence for a vehicle being a hackney carriage seating that greater number of persons.

(3) Where not less than twelve vehicles of a similar type, being hackney carriages, and belonging to one owner, are registered with a county council, and the council is satisfied that one of those vehicles (hereinafter referred to as "the old vehicle") has been destroyed or withdrawn permanently from use as a hackney carriage, the council shall, on issuing to that owner a licence in respect of another hackney carriage to be used for the same purpose as the old vehicle, allow a rebate from the duty payable on that licence at the rate of one-quarter of the duty paid in respect of the licence for the old vehicle for every complete three months between the date when the old vehicle was destroyed or withdrawn, and the expiration of the licence for that vehicle, and, where any such rebate is so allowed, the licence for the old vehicle shall be forthwith cancelled.

**12. *Regulations.***] (1) The Minister may make regulations generally for the purpose of carrying this Act into effect, and in particular, without prejudice to the generality of the foregoing provision, may make regulations—

- (a) with respect to the registration of vehicles; and
- (b) requiring county councils to make the prescribed returns with respect to vehicles registered with them, and for making any particulars contained in the register available for use by the prescribed persons; and
- (c) prescribing the size, shape and character of the identification marks or the signs to be fixed on any vehicle and the manner in which those marks or signs are to be displayed and rendered easily distinguishable, whether by night or by day; and
- (d) requiring any person to whom any vehicle is sold or disposed of to furnish the prescribed particulars in the prescribed manner; and

- (e) providing for the issue of registration books in respect of the registration of any vehicle, and for the surrender and production, and the inspection by the prescribed persons, of any book so issued, and for the issue of new registration books and new licences in the place of any such books or licences which may be lost or destroyed, and for the fee (not exceeding five shillings) to be paid on the issue of a new registration book or licence; and
- (f) prescribing the form of, and the particulars to be included in, the register with respect to vehicles for which a general licence has been taken out by a manufacturer or dealer, and the identification marks to be carried by any such vehicle, and defining the purposes for which the holder of a general licence may use a vehicle on a road; and
- (g) extending any provisions as to registration, and provisions incidental to any such provisions, to any vehicles in respect of which duty under section thirteen of the Finance Act, 1920, is not payable (including vehicles belonging to the Crown), and for providing for the identification of any such vehicles; and
- (h) prescribing any matter which is to be prescribed under this Act.

(2) Every regulation made under this Act shall be laid before each House of Parliament as soon as may be after it is made, and, if an address is presented to His Majesty within twenty-one days on which that House has sat next after any such regulation is laid before it praying that the regulation may be annulled, His Majesty in Council may annul the regulation, and it shall thenceforth be void, but without prejudice to the validity of anything previously done thereunder.

(3) County councils shall comply with any regulations so made by the Minister under this Act.

(4) If any person acts in contravention of, or fails to comply with, any regulations made under this Act, he shall, for each offence, be liable on summary conviction to a penalty not exceeding twenty pounds.

**13. Penalties.]** (1) If any person uses any vehicle for which a licence under the Finance Act, 1920, as amended by this Act, is not in force, or being the holder of a general licence or general licences issued under this Act uses at any one time a greater number of vehicles than he is authorised to use by virtue of that licence or those licences, he shall be liable to an excise penalty of twenty pounds, or an excise penalty equal to three times the amount of the duty payable in respect of the vehicle or vehicles, whichever is the greater.

Proceedings for a penalty under this subsection may be brought at any time within a period of twelve months from the date on which the offence was committed.

(2) If any person in connection with an application for a licence for a vehicle or a carriage makes a declaration which to his knowledge is false or in any material respect misleading, or if any person being required by virtue of this Act to furnish particulars in connection with a change of the registration of any vehicle furnishes any particulars which to his knowledge are false or in any material respect misleading, he shall be liable on summary conviction to a penalty not exceeding fifty pounds or to imprisonment with or without hard labour for a term not exceeding six months.

(3) If in any proceedings under this section any question arises as to the number of vehicles used or as to the character, weight or horse-power

of any vehicle or as to the number of persons seated by a vehicle, or as to the purpose for which any vehicle has been used, the burden of proof in respect of the matter in question shall lie on the defendant.

(4) If any person forges or fraudulently alters or uses or fraudulently lends or allows to be used by any other person any mark for identifying a vehicle or any licence or registration book under this Act, he shall be liable on summary conviction to a fine not exceeding fifty pounds or to imprisonment with or without hard labour for a term not exceeding six months.

(5) All penalties and forfeitures recovered under or in pursuance of this Act, whether by a county council or by any other person, shall be paid into the Exchequer in such manner and in accordance with such directions as may be contained in any Order in Council made under this Act.

14. *Local licensing fees to cease to be chargeable.*] (1) As from the first day of January, nineteen hundred and twenty-one, any fees or charges, by whatever name called, payable under any general or special Act to any county council, local or police authority in respect of the licensing of any vehicle (other than a tramcar) shall cease to be payable.

(2) Any person who at the commencement of this Act is the holder of any licence issued by any county council or local or police authority in respect of any vehicle (other than a tramcar), being a licence in respect of which a fee or charge exceeding five shillings has been paid, or to whom a general identification mark has been assigned under proviso (b) to subsection (4) of section two of the Motor Car Act, 1903, shall be entitled, on making an application in the prescribed manner to the prescribed county council, local or police authority, to obtain a repayment in respect of the fee or charge paid by him for the licence or mark at the rate of one-twelfth of the amount so paid in respect of every complete month for which the licence or mark continues in force after the thirty-first day of December, nineteen hundred and twenty, and any sums paid under this provision by a county council shall be treated for the purposes of this Act as expenses incurred by the council in the levying of the duties, and any sums so paid by a local or police authority shall be repaid to the authority out of the Road Fund.

(3) Where, upon application for a licence to ply for hire with an omnibus, the licensing authority either refuses to grant a licence or grants a licence subject to conditions, in either case the applicant shall have a right of appeal to the Minister of Transport from the decision of the licensing authority, and the Minister shall have power to make such order thereon as he thinks fit, and such order shall be binding upon the licensing authority.

An order made by the Minister under this subsection shall be final and not subject to appeal to any court, and shall, on the application of the Minister, be enforceable by writ of mandamus.

For the purpose of this subsection, the expression "omnibus" includes every omnibus, char-à-banc, waggonette, brake, stage coach, or other carriage plying for hire or used to carry passengers at separate fares.

15. Paragraph (3) of section twenty-eight of the Highways and Locomotives (Amendment) Act, 1878 (which prescribes the maximum weight of locomotives to be used on highways), shall have effect as though such weight as may be prescribed were therein substituted for fourteen tons, and different weights may be prescribed with respect to different classes of locomotives.

16. The proviso to section four of the Locomotive Act, 1861, in its application to Scotland is hereby repealed, and in lieu thereof it is enacted as follows:—

Provided that the regulation of weight herein mentioned shall not extend to any wagon carrying only one block, plate cable, roll, vessel of stone or metal, or other single article being of greater weight than sixteen tons, but the fellies, tires, or shoes of such wagon shall not be less than eight inches in breadth, and any damage arising from the user of any such wagon shall be deemed to be damage caused by excessive weight within the meaning of section fifty-seven of the Roads and Bridges (Scotland) Act, 1878.

17. *Interpretation and application to Scotland.*] In this Act, unless the context otherwise requires,—

The expression “county” includes a county borough, and the expression “county council” shall be construed accordingly;

The expression “the Minister” means the Minister of Transport;

The expression “prescribed” means prescribed by regulations;

The expression “use” means use on a public road;

The expression “police authority” includes the receiver for the metropolitan police district.

18. *Application to Scotland.*] In the application of this Act to Scotland—

(a) a reference to paragraph (3) of section three of the Locomotives Amendment (Scotland) Act, 1878, shall be substituted for the reference to paragraph (3) of section twenty-eight of the Highways and Locomotives (Amendment) Act, 1878; and

(b) except in this section, references to a county shall be deemed to include references to a royal, parliamentary, or police burgh containing within its boundaries, as ascertained, fixed, or determined for police purposes, a population according to the census for the time being last taken of or exceeding fifty thousand, and every other burgh shall be deemed to form part of the county within which it is situated, and the expression “county council” shall be construed accordingly; and

(c) section four of the Locomotives Act, 1898, with the exception of subsection (3) thereof, shall apply to Scotland with the substitution of arbitration by a single arbiter to be appointed, failing agreement, by the sheriff, for arbitration under the Arbitration Act, 1889, and county and town councils may borrow for the purposes of the said section as so applied in like manner as they may borrow for the purposes of the Roads and Bridges (Scotland) Act, 1878.

19. *Provisions as to default on the part of county councils in Ireland.*]

(1) This Act, in its application to Ireland, shall have effect with the following modification, namely, a reference to section two of the Public Roads (Ireland) Act, 1911, shall be substituted for the reference to section twenty-eight of the Highways and Locomotives (Amendment) Act, 1878.

(2) Section four of the Locomotives Act, 1898 (which relates to the erection and use of weighing machines), shall apply to Ireland with the following modifications, namely—

(a) a reference to county councils and urban district councils shall be substituted for the reference to road authorities;

(b) a reference to the enactments with respect to arbitrations in Ireland shall be substituted for the reference to the Arbitration Act, 1889; and

(c) a reference to the Public Health Ireland Acts, 1878 to 1919, shall be substituted for the reference to the Public Health Act, 1875.

(3) Provision may be made by Order in Council for the discharge by the Minister or otherwise of the functions under this Act and the Motor Car Acts 1896 and 1903, of any county council in Ireland which, in the opinion of the Minister, neglects or refuses to perform any of those functions, and for carrying the provisions of this Act, and of any such order, or any other order under this Act, into effect as respects the area of such county council.

20. *Short title, commencement, and repeal.*] (1) This Act may be cited as the Roads Act, 1920.

(2) This Act shall come into operation on the first day of January, nineteen hundred and twenty-one.

(3) The enactments set out in the Third Schedule to this Act are hereby repealed to the extent specified in the third column of that schedule.

## FIRST SCHEDULE

### AMENDMENTS OF DEVELOPMENT AND ROAD IMPROVEMENT FUNDS ACT, 1909

Sections 4, 8, 9, 10, 11, 13, and 19, and Schedule. References to the Minister shall be substituted for references to the Road Board.

Section 8 . . . The following paragraph shall be substituted for paragraph (a) of subsection (1)—

“(a) to make to any highway authority advances in respect of the construction of new roads or the maintenance or improvement of existing roads, or to make such advances, in conjunction with a highway authority, to any company or person.”

In subsection (5) the definition of “roads” shall be extended so as to include road-ferries and footways.

Section 11 . . . In subsection (1) for the words “the Treasury have approved a proposal by the Road Board” there shall be substituted the words “the Minister proposes.”

Subsection (2) shall cease to have effect.

In subsection (6) the words from “and any receipts” to the end of the subsection shall be repealed.

Section 13 . . . For the words “the road improvement grant” wherever those words occur there shall be substituted the words “the Road Fund.”

## SECOND SCHEDULE

### PROVISIONS AS TO APPLICATIONS AND INQUIRIES WITH RESPECT TO CLOSING OF HIGHWAYS

(1) Every application by a county council that the driving of vehicles on any highway may be prohibited or restricted shall be made in the prescribed form, and shall state the grounds upon which the application is made.

(2) The Minister, on receiving any such application as aforesaid, shall forthwith take steps for the holding of an inquiry to consider the application, and

shall, for that purpose, appoint a competent and impartial person to hold the inquiry and to report to him thereon.

(3) The Minister shall publish in the London, Edinburgh, or Dublin Gazette, as the case requires, and once at least in each of two consecutive weeks in some local newspaper circulating in the district in which the highway to which the application relates is situate, notice of the fact that an inquiry will be held to consider the application, and the notice shall contain sufficient particulars of the application, and shall contain a statement as to the time and place at which the inquiry will be held, and shall also state that all persons interested may attend and be heard at the inquiry.

(4) The inquiry shall be held in public and, subject as hereinbefore provided, all persons interested may appear at the inquiry either in person or by counsel, agent or solicitor :

Provided that no person shall be entitled to be heard at the inquiry unless he has, within one week from the last publication of the notice of the holding of the inquiry, sent a notice in writing to the Minister of his desire to be heard at the inquiry, and the person holding the inquiry may refuse to hear any person if he is satisfied that the views of that person have been adequately stated on the inquiry by some other person.

(5) A witness on the inquiry may, if the person holding the inquiry thinks fit, be examined on oath, and the person holding the inquiry shall, for that purpose, have power to administer an oath.

(6) Subject as aforesaid, the inquiry and all proceedings incidental thereto shall be conducted in the prescribed manner.

### THIRD SCHEDULE

#### ENACTMENTS REPEALED

Session and Chapter.	Short Title.	Extent of Repeal.
59 & 60 Vict. c. 36.	The Locomotives on Highways Act, 1896.	Subsection (2) of section one.
61 & 62 Vict. c. 29.	The Locomotives Act, 1898.	Sections nine, ten, and eleven; in subsection (1) of section seventeen the definition of "agricultural locomotive"; and subsection (3) of section eighteen.
3 Edw. 7, c. 36.	The Motor Car Act, 1903.	Sections two and five; paragraph (a) of subsection (1) of section seven; in subsection (2) of that section the words "the entry of particulars of the ownership of a car on change of ownership, such fee, not exceeding ten shillings, as may be prescribed by the regulations, and in respect of"; and section eight.
9 Edw. 7, c. 47.	The Development and Road Improvement Funds Act, 1909.	Section seven; subsection (3) of section eight; subsection (2) of section eleven; and sections twelve and fourteen.

## PROVISIONAL RULES AND ORDERS

## ROAD VEHICLES

ROAD VEHICLES (REGISTRATION AND LICENSING) REGULATIONS, 1921  
DATED MARCH 9TH, 1921

To the County Councils of the several Administrative Counties in Great Britain and Ireland.

To the Councils of the several County Boroughs in England and Wales and Ireland and of the Royal Parliamentary and Police Burghs concerned in Scotland.

And to all others whom it may concern.

The Minister of Transport hereby certifies under Section 2 of the Rules Publication Act, 1893 (56 & 57 Vict. c. 66), that on account of urgency these Regulations should come into immediate operation, and under the powers conferred on him by the Motor Car Acts, 1896 and 1903 (59 & 60 Vict. c. 36, and 3 Edw. 7, c. 36), and by Section 13 of the Finance Act, 1920 (10 & 11 Geo. 5, c. 18), and by the Roads Act, 1920 (10 & 11 Geo. 5, c. 72), and by the Order in Council made thereunder, and any and every other power thereunto him enabling, hereby, without prejudice to any further exercise of the said powers, makes and prescribes the following Regulations to come into operation forthwith as Provisional Regulations, with respect to the licensing and registration of mechanically propelled vehicles, the licensing of carriages and matters incidental to such licensing and registration, that is to say :—

1. (1) These Regulations may be cited as “The Road Vehicles (Registration and Licensing) Regulations, 1921.”

(2) In these Regulations the expression “Council” means County Council as defined in the Roads Act, 1920 ; the expression “approved” means approved by the Minister of Transport.

The expression “Local Taxation Officer” means the selected officers of the Council to whom powers or duties exercisable or performed by officers of Customs and Excise have been delegated by the Council.

The expression “prescribed form” means such one of the forms indicated in the first Schedule hereto as may be appropriate, such forms being obtainable on application at a Post Office or at the Office of the Council.

The expression “owner” means the person by whom the vehicle or the carriage as the case may be is kept and used, and the expression “ownership” shall be construed accordingly.

## PART I

*Licensing and Registration of Mechanically Propelled Vehicles*

2. A person who desires to obtain a licence for a mechanically propelled vehicle shall apply to the Council in whose area such vehicle is ordinarily kept by means of a declaration in such one of the prescribed forms as shall be applicable.

3. A vehicle shall be deemed to be ordinarily kept in the area of the

Council in which is situated the garage in which the vehicle is ordinarily kept.

Provided that where a person satisfies the Council of the area in which he declares his principal place of business or permanent postal address to be situated that a vehicle is not ordinarily kept in any one area, application for a licence may be made to that Council and a licence issued by them.

4. (1) Licences for mechanically propelled vehicles shall be in the form set out in the First Part of the Second Schedule hereto.

(2) In the case of all mechanically propelled vehicles (except tramcars and road rollers) the licence shall be attached to and carried on the vehicle at all times when the vehicle is in use on a public road and, subject as herein provided, in a holder in compliance with the specification set out in the Second Part of the Second Schedule hereto.

(3) The licence shall be carried on the vehicle :—

(a) *In the case of motor cycles (including motor scooters), motor cycles with trailer or sidecar, tricycles and invalid carriages :—*

In a conspicuous position on the near side of the vehicle ;  
and

(b) *In the case of all other vehicles (except when placed on or adjacent to the wind screen as hereinafter provided) :—*

On the near side of the vehicle facing toward the near side of the road and not less than 2 feet 6 inches nor more than 6 feet 6 inches from the ground level between two parallel lines, the first drawn vertically through the rearmost part of the driving seat or cab (or where no such fitting exists the foot plate), and the second drawn vertically 6 inches in front of the base of the front glass wind screen where fitted, or where no such wind screen is fitted, through a point 4 feet forward of the first line.

Provided that in the case of a vehicle fitted with a front glass wind screen extending across the vehicle to the near side, the licence may be carried facing either forwards or backwards on the near (left) lower corner of the glass of such wind screen, or within 2 inches of the glass either in front or behind it and so as to be visible through the glass either from in front or from behind. In the event of the licence being carried actually upon a glass portion of the vehicle, and otherwise complying with this Regulation, the obligation that it shall be carried in a metal holder with a clear glass front shall not be enforced if it is so carried as to be weather-proof.

The Licence Card shall be placed and carried so as to be clearly visible at all times by daylight to a person standing at the near side of the vehicle, whether such vehicle is moving or stationary.

5. (1) A Registration Book containing such particulars relative to the vehicle in respect of which it is issued as the Minister may from time to time direct shall be issued to every owner of a mechanically propelled vehicle in respect of which a licence is issued except in those cases where the form of declaration appropriate to over six vehicles of uniform type in the same ownership (Form R.F. 4A or 8A) has been used. In cases where Form R.F. 4A or 8A has been used the owner shall before selling or otherwise disposing of a vehicle included in such declaration, apply to the Council by whom the vehicle is registered and obtain a Registration

Book in respect of such vehicle and upon receipt of such application the Council shall issue such Registration Book. The Registration Book shall be produced for inspection by the owner at any reasonable time upon request of a Police Officer, Officer of H.M. Customs and Excise or Local Taxation Officer.

(2) No person shall deface or mutilate any Registration Book or alter or obliterate any entry made therein or except as provided by these Regulations make any entry in or addition to such Registration Book.

6. If any alteration shall be made in a vehicle after it has been licensed and registered which affects the registration particulars contained in the declaration made by the owner of the vehicle, he shall forthwith notify such alteration to the Council with whom such vehicle is registered and forward to that Council his Registration Book.

Provided that where such alteration renders inaccurate any of the particulars shown upon the Licence Card for the vehicle, he shall also surrender the licence for the vehicle to the Council, who shall forthwith issue without charge a new licence valid for the same period as the surrendered licence.

7. If the character or the use of a vehicle shall be altered so as to render such vehicle liable to duty at a higher rate than that at which duty has been paid, the licence issued in respect of such vehicle shall become void and the owner shall forward to the Council a new declaration form appropriate to the altered conditions and shall pay the difference between the amount of the duty indicated upon the licence and the rate of duty payable in respect of the altered vehicle.

8. (1) On the sale or other change of ownership of a vehicle the then registered owner of the vehicle shall insert in the appropriate part of the Registration Book the name and address of the transferee or other new owner, and forward such book to the Council with whom the vehicle is then registered.

(2) The transferee or other new owner before he shall be entitled to use the vehicle on any public road shall notify the Council of the area in which the vehicle will be ordinarily kept by him that he has acquired the vehicle, and, unless the current licence has been delivered to him by the then registered owner, which delivery if the provisions of this Regulation are otherwise complied with shall operate as a transfer of the said licence, shall obtain a licence in respect of the vehicle in accordance with these Regulations. Upon expiry of the current licence (if so transferred) he shall, if he intends to renew the licence, make application therefor under the provisions of Regulation 2.

9. In the case of any vehicle subject to duty on the basis of horse-power of which the engine was constructed before the first day of January, 1913, the owner of such vehicle may apply to the Council by whom the licence for the vehicle was issued, and upon showing to the satisfaction of the Council that such engine was in fact constructed before that date shall be entitled to a refund of one-fourth of the duty paid in respect of such vehicle.

10. On a change of address the owner shall enter particulars of his new address in the space provided in the Registration Book, and shall forthwith forward the book with such particulars entered in it to the Council by whom the vehicle is registered, who shall note the change of address and cause the book to be returned to the owner forthwith.

11. (1) When any vehicle shall be broken up, destroyed or sent permanently out of the United Kingdom, the owner shall notify the Council with whom such vehicle is registered, and shall return the Registration Book to the Council, or in case of a vehicle sent permanently out of the United Kingdom to the Customs Office at the port of departure.

(2) Where a Council is satisfied that a vehicle has been broken up, destroyed or sent permanently out of the United Kingdom, the value of the licence in respect of such vehicle shall be allowed to the owner upon his taking out a new licence for another vehicle of a similar class for the same period for which the previous licence was in force, but no part of the duty paid for the original licence shall be refunded.

12. (1) If a licence granted or a Registration Book issued by a Council under these Regulations has been lost, destroyed or accidentally defaced, the registered owner of the vehicle may apply to the Council with whom the vehicle is registered for the grant or issue to him of a duplicate licence or Registration Book, as the case may be, and the Council upon being satisfied as to such loss, destruction or defacement and, where the licence or Registration Book has been accidentally defaced, upon the surrender of the licence or Registration Book so defaced, shall issue a duplicate so marked on payment of a fee of five shillings, and the duplicate so issued shall have the same effect as the original licence or Registration Book.

(2) Where a Council is satisfied that a vehicle in respect of which a licence has been taken out has not been used upon any public road at any time during the currency of the licence, or that a general licence under Part II of these Regulations for which duty has been paid has not, in fact, been used at any time during its currency, the duty paid shall, upon surrender of the Licence and Registration Book, or the General Licence, General Identification Plates and Book (as the case may be), be refunded.

13. Upon the receipt by a Council of an application for a licence and upon payment by the applicant of the amount of duty appropriate to the vehicle the Council to whom such application is made shall :—

(i) If they are satisfied that the vehicle in respect of which the application is made is ordinarily kept within their area or is one in respect of which they are otherwise authorised to issue a licence, issue to the applicant a licence in such form as may be appropriate to the type or class of vehicle in respect of which the application is made ;

(ii) Enter upon such licence before issue thereof :—

- (a) the index mark and registration number of the vehicle ;
- (b) the horse-power, maximum seating capacity, or weight unladen (as the case may require) in respect of which duty has been paid, provided that where duty has been paid with reference to seating capacity or weight unladen at the maximum rate the letters M A X shall be inserted ;
- (c) the class, make and colour of the vehicle ;
- (d) the amount of duty paid ; and
- (e) a stamp or other sufficient mark indicating the name of the authority by whom the licence is issued, and the date when the duty was paid ;

(iii) Prepare and issue to such applicant the Registration Book with the appropriate particulars entered thereon ;  
and shall retain the declaration made by the owner of the vehicle.

14. (1) The index mark and registration number which is declared to have been the index mark and registration number of any vehicle at the 31st day of December, 1920, shall be entered in the Register and on the licence, and shall thereafter attach to that vehicle until the same is broken up, destroyed or sent permanently out of the United Kingdom.

Provided that if a Council is not satisfied that such index mark and registration number were at the 31st day of December, 1920, registered in respect of that vehicle under Article III or Article IV of the Motor Car (Registration and Licensing) Order, 1903, or under Article III or Article IV of the Motor Car Registration and Licensing (Scotland) Order, 1903, or under Article III or Article IV of the Motor Car (Registration and Licensing) (Ireland) Order, 1903, as the case may be, they shall assign a new number and the licence and Registration Book, if any, already issued in respect of the vehicle shall become void.

(2) In the case of any other vehicle the Council shall assign to the vehicle an index mark and a registration number according to the index mark allotted under these Regulations to the Council, and shall enter such mark and number in the Register and upon the licence.

15. The Council may before they issue the Registration Book to the owner of a vehicle licensed by them require to be satisfied by the inspection of the vehicle or the production of other sufficient evidence that the vehicle in respect of which such book is to be issued in fact accords with the declaration.

16. The Council may at any time, either before or after the issue of a licence, require the owner of a vehicle licensed in reference to weight unladen to furnish a certificate of weight in the prescribed form, and may if they think fit, by not less than seven days' notice in writing, require the owner to produce the vehicle at a specified time at a specified weigh-bridge, and the owner shall cause the vehicle to be weighed at that time and place in the presence of an officer of the Council.

17. Upon or not more than 14 days before the expiry of a licence application for renewal may be made in the prescribed form in the case of any vehicle the ownership of which has not changed during the currency of the licence and in which no alterations have been made other than such as may have been notified to the Council in conformity with the requirements of these Regulations, either to the Council with whom such vehicle is registered or at any Post Office authorised for that purpose by the Postmaster-General, but renewal of the licence under this Regulation shall not be made at the Post Office after the expiration of 14 days from the date on which the licence expired.

18. Where from any cause a licence becomes void it shall forthwith be surrendered to the Council with whom the vehicle was last registered, unless the licence is renewed at a Post Office, in which case the expired licence shall be surrendered to the Post Office at the time of renewal.

19. Every Council shall establish and keep in such form as the Minister of Transport may direct a Register (in these Regulations referred to as "the Register") for the registration of mechanically propelled vehicles.

20. The index mark allotted to each Council shall be the letter or letters shown opposite to the name of that Council in the Third Schedule hereto.

21. The identification mark to be carried by a vehicle shall consist of the index mark and registration number assigned to that vehicle and shall

be exhibited on two plates which shall conform as to lettering, numbering, and otherwise, with the provisions set out in the Fourth Schedule hereto.

22. (1) The plates exhibiting the identification mark shall be fixed, one on the front of, and the other on the back of, the vehicle, in an upright position, so that every letter or figure on the plate is upright and easily distinguishable, in the case of the plate placed on the front of the vehicle, from in front of the vehicle, and, in the case of the plate placed on the back of the vehicle, from behind the vehicle.

(2) In the case of a motor tricycle or motor bicycle, the plate fixed on the front of the cycle may, if it is a plate having duplicate faces conforming with the Fourth Schedule hereto, be fixed so that from whichever side the cycle is viewed the letters or figures on one or other face of the plate are easily distinguishable, though they may not be distinguishable from the front of the cycle.

23. When a vehicle of any kind is attached to a mechanically propelled vehicle either in front or behind, the plate required to be fixed on the front or on the back of the mechanically propelled vehicle, or a duplicate of such plate, shall be fixed on the front or on the back of the vehicle attached, as the case requires, in the same manner as the plate is required to be fixed upon the vehicle drawing or propelling the same.

24. A Council with whom a vehicle is registered may, if they think fit, supply to the owner of the vehicle, if he so desires, the plates forming the identification mark on the vehicle, and may make a charge for them.

25. (1) Whenever during the period between half an hour after sunset and half an hour before sunrise a vehicle is used on a public highway, a lamp shall be kept burning on the vehicle, so contrived as to illuminate, by means of reflection, transparency, or otherwise, and render easily distinguishable, every letter or figure on the identification plate fixed on the back of the vehicle or of any vehicle attached to the back of the vehicle, as the case may be.

(2) In the application of this Regulation to a motor tricycle or a motor bicycle of a weight unladen not exceeding three hundredweights, the plate fixed on the front of the vehicle may, if desired, be substituted for the plate fixed on the back of the vehicle.

26. A Council shall supply free of charge to any other Council or any superior officer of police or constable authorised by such an officer, upon application made, the registered name and address of the owner of any vehicle registered by them, together with a copy of the particulars registered as those which are shown upon the last licence issued in respect of that vehicle, and the Council shall also upon payment of a charge of one shilling supply the like information to any person who may show that he has a reasonable cause for requiring the same to be supplied to him.

## PART II (a)

### *General Licences for Manufacturers of or Dealers in Mechanically Propelled Vehicles and General Identification Marks*

27. A person being a manufacturer of or dealer in mechanically propelled vehicles who desires pursuant to the Roads Act, 1920, to obtain a general licence in respect of :

(a) all vehicles used by him, or

(a) See now R.V. (Trade Licences) Regulations, 1922, Art. 2, *post*, p. 393.

(b) all vehicles used by him of the classes liable to duty under paragraphs 1 and 2 of the second schedule of the Finance Act, 1920, shall apply to the Council in whose area his business premises are situate by means of a declaration in the prescribed form.

28. (1) The Council shall issue to the person to whom a general licence is granted a licence card containing the following particulars :—

1. Name and address of person or firm to whom the licence is issued.
2. Number of identification plate allotted.
3. Date of expiry of licence.
4. Amount of duty paid.
5. Date stamp of Office of issue.
6. Serial number of licence.

(2) The Council shall also supply free of charge with each general licence one plate (with a holder for the licence card) for fixing in front and one plate for fixing at the back of the vehicle. Provided that where application is made and duty paid in respect of a licence for all vehicles, the applicant shall be entitled also without further payment to licence plates appropriate for the classes of vehicles liable to duty under paragraphs 1 and 2 of the second schedule to the Finance Act, 1920.

(3) The plates to be supplied by the Council shall conform to such specification as the Minister of Transport may direct and shall remain the property of the Council and be returned forthwith to the Council whenever the licence in respect of which they were issued is not renewed.

(4) The plates shall be fixed in front and at the back of the vehicle in the manner prescribed by these Regulations with respect to the index mark and registration number assigned to vehicles under these Regulations and shall be carried with the licence card attached to the front plate at all times when the vehicle is in use on a road for the purposes hereinafter mentioned.

29. The holder of a general licence shall not use any vehicle on a road under that licence for any purpose other than :—

- (1) On test or trial during the course of construction or repairs or after completion in either such case ;
- (2) For the purpose of proceeding to or from a public weigh-bridge for ascertaining unladen weight, or to or from any place for registration by a Council ;
- (3) On trial for the benefit of a prospective purchaser, and for proceeding to or returning from the place where the prospective purchaser intends to keep such vehicle. For such purpose the vehicle may be driven by the prospective purchaser if he holds a driver's licence in any case in which such a licence is requisite ;
- (4) For delivery to or from the premises of a manufacturer or trader and from such premises to the premises of a purchaser or of another manufacturer or trader ;
- (5) For proceeding to or returning from a workshop with the object of fitting a body to the vehicle or of painting or repairs ;
- (6) For proceeding from the premises of a manufacturer or trader to a Railway Station or Wharf for entraining or shipment, or from a train or ship to the premises of the manufacturer or trader ;
- (7) For proceeding to an exhibition of motor vehicles with the object of exhibiting the vehicle or for returning from such exhibition to the premises of a manufacturer or trader ;

- (8) On trials organised by such Automobile Clubs, Societies or Associations as shall be approved for the purpose ;
- (9) For proceeding to or returning from any place at which the vehicle is to be or has been offered for sale.

30. Every person to whom a general licence shall be issued under this part of these Regulations shall keep in the book to be issued to him by the Council with such licence an accurate and sufficient record of each occasion upon which a vehicle is used on a road in pursuance of the general licence, and before any vehicle is so used, he shall cause the appropriate entries to be made in such book.

31. The book shall be produced at all reasonable times for inspection by any Police or Local Taxation Officer, and shall be kept available for inspection at the place specified in the declaration made on application for the general licence as the place at which the book will be kept.

32. It shall not be necessary for a vehicle when carrying general identification plates and a licence card in manner hereinbefore prescribed to carry any other identification marks or licence.

### PART III

#### *Mechanically propelled Hackney Vehicles*

33. Any vehicle licensed under the provisions of paragraph 3 of the second Schedule of the Finance Act, 1920, shall display in addition to the index mark and registration number of the vehicle a plate of the dimensions and form set out in the fifth Schedule hereto and carried in the position prescribed in that Schedule unless such vehicle is licensed to ply for hire and carries in a conspicuous position on the outside of the vehicle a metal plate in the form prescribed by the authority by whom it is licensed to ply for hire indicating clearly that the vehicle is a hackney vehicle so licensed.

Provided that where such a vehicle is temporarily adapted for and used solely for the conveyance of goods in the course of trade it shall not be necessary for the plate prescribed by this Regulation to be so displayed and carried at any time when such vehicle is so adapted and being so used.

### PART IV

#### *Mechanically propelled Vehicles exempt from Licence Duty*

34. The provisions of these Regulations shall extend to mechanically propelled vehicles exempt from duty on licence with the following modifications :—

##### *(i) Vehicles the property of the Crown*

A declaration in the prescribed form shall be made in respect of each such vehicle by a duly authorised officer of the department in whose possession or use such vehicle may be and shall be accompanied by a Certificate in the approved form signed by that officer.

Upon receipt by a Council of such declaration and Certificate, the Council shall enter the registration particulars of such vehicle in a separate part of the Register and issue to the officer by whom the Certificate is signed a licence card with the word NIL marked in the space provided

for indicating the amount of duty payable but otherwise completed in accordance with these Regulations.

For the purposes of these Regulations the officer authorised as aforesaid shall be deemed to be the owner of the vehicles in the possession or use of the Government Department.

Upon the expiry of the period for which such licence card is issued it shall be the duty of the Council to forward to each Government Department, any of whose vehicles are registered with them, a list of the vehicles so registered, and, upon receipt of a Certificate as aforesaid, the Council shall renew the licence for each of the vehicles specified in the Certificate.

#### (ii) *Other exempt Vehicles*

The owner of any motor ambulance or motor fire engine or other fire appliance or of a vehicle which is kept for use exclusively for purposes in connection with the extinction of fire, or of any road roller, shall apply to the Council for a licence for and registration of that vehicle, and upon receipt of such application the Council shall issue a form of licence for such vehicle with the word NIL marked in the space provided for indicating the amount of duty paid, but otherwise completed in accordance with these Regulations.

The application under this Regulation shall in the case of a local authority be made in the prescribed form by the clerk to that authority, and in the case of an Institution by the Secretary or Chief Administrative Officer of that Institution.

### PART V

#### *Licensing of Carriages*

35. A declaration in the prescribed form shall be made in respect of every carriage not entitled to exemption from licence duty. Upon receipt of such declaration the Council to whom such application is made shall issue to the applicant a licence in the approved form. Provided that at the option of the owner the application for a licence under this part of these Regulations may be made to any Money Order Post Office either personally or by post addressed in accordance with the conditions specified upon the prescribed form.

### PART VI

#### *Locomotives*

36. (1) In this part of these Regulations—

“Locomotive” has the same meaning as in the Highways and Locomotives (Amendment) Act, 1878.

(2) (i) Except as hereinafter provided the weight of a locomotive exclusive of the weight of water fuel or accumulators (other than boilers) used for the purpose of propulsion shall not exceed 15 tons 10 cwt.—provided that the said weight of 15 tons 10 cwt. may be exceeded in the cases and to the extent following, that is to say:—

(a) In the case of locomotives carrying as a permanent fitting a jib crane dynamo or extra winding drum or any one or more of such fittings by not more than 1 ton 10 cwt.;

(b) In the case of locomotives fitted on all wheels with tyres which are pneumatic or which are made of a soft or elastic material by not more than 2 tons;

(c) In the case of locomotives fitted with Boulton wheels or other wheels

from time to time approved by the Minister of Transport the tyres of which are sprung or mechanically cushioned by not more than 3 tons.

(ii) In the case of cable ploughing engines the winding or windlass gear shall not be included in computing the weight.

(iii) The weight of water fuel and accumulators (other than boilers) of any locomotive shall not exceed 3 tons.

(iv) Not more than three-fourths of the weight of any locomotive including the weight of water fuel and accumulators shall be borne by the rear axle.

## PART VII

### *Miscellaneous*

37. In the Heavy Motor Car Order, 1904, the Heavy Motor Car (Scotland) Order, 1905, and the Heavy Motor Car (Ireland) Order, 1905, as amended in each case by subsequent Orders, the expression "registering authority" shall be deemed to mean the County Council by whom the heavy motor car has been or can be registered in pursuance of the Roads Act, 1920, and these Regulations and the expression "registered axle-weight" shall be deemed to mean the axle-weight as registered by a County Council in pursuance of these Regulations.

38. The several Statutory Rules and Orders set out in the Sixth Schedule hereto are hereby revoked or varied to the extent stated in that Schedule.

39. (1) For the purposes of the Finance Act, 1920, the horse-power of any mechanically propelled vehicle deriving its motive power wholly from an internal combustion engine worked by a cylinder or cylinders shall be taken to be:—

(a) In the case of a single-cylinder engine, the horse-power attributable to the cylinder of the engine;

(b) In the case of an engine having two or more cylinders, the sum of the horse-powers attributable to the separate cylinders.

(2) The horse-power attributable to any cylinder of an internal combustion engine shall be deemed to be equal to the square of the internal diameter of such cylinder measured in inches divided by a numeral:—

(a) In the case of a cylinder having a single piston, the numeral used as divisor shall be 2·5;

(b) In the case of a cylinder having two pistons, the numeral used as divisor shall be 1·6.

(3) The horse-power of any mechanically propelled vehicle deriving its power wholly from a steam engine shall be taken to be proportional to the effective heating surface of the boiler supplying steam to such engine, at the rate of 1 horse-power for every 3 square feet in such effective heating surface, and the effective heating surface shall be taken to be:—

(a) In the case of a boiler having horizontal or approximately horizontal tubes, the whole of that surface of the tubes which is exposed to the flame or hot gases;

(b) In the case of a boiler having vertical or approximately vertical tubes, half of that surface of the tubes which is exposed to the flame or hot gases.

(4) Any mechanically propelled vehicle deriving its motive power from an electric motor or motors shall be deemed to be of 6 horse-power.

(5) In measuring cylinders and boilers, and in calculating horse-power, fractions of inches and feet and fractions of a unit of horse-power are to be taken into account. Provided that in the final calculation of horse-power a resultant fraction of less than  $\cdot 1$  of a unit of horse-power shall be omitted.

(6) Where it appears that, in consequence of the exceptional design or construction of the engine of any mechanically propelled vehicle, the horse-power as calculated under this Regulation is substantially less than the average power which the engine would develop in continuous use on the road if there were no restrictions on speed other than those imposed by the vehicle itself, then such average power shall be taken as the power of the vehicle.

40. (1) Applications by a County Council under Section 7 (4) of the Roads Act, 1920, that the driving of vehicles on any highway may be prohibited or restricted shall be in the approved form and shall be signed by the Clerk to the Council, and shall show that the application is made in pursuance of a resolution passed by the Council or by a Committee of the Council charged with the supervision and control of highways and the traffic thereon.

(2) The notice to be given under Section 7 (4) of the Roads Act, 1920, that an Order has been made under that section shall be given by the authority concerned by a notice in the approved form published in the London, Edinburgh or Dublin Gazette as the case requires and once at least in each of two consecutive weeks in some local newspaper circulating in the district in which the highway to which the Order relates is situate, and by such notice or warning boards or signs erected in such positions on or near the said highway and in such other manner as may be directed by the Order.

(3) No person shall drive or cause to be driven any mechanically propelled vehicle upon any highway with respect to which an Order has been made under Section 7 (4) of the Roads Act, 1920, in contravention of such Order.

41. The Clerk of the Council and any other officer authorised by the Council are respectively empowered to perform any duty or exercise any power of the Council for the purpose of carrying these Regulations into effect.

## PART VIII

### *Special Provisions as to Ireland*

42. The foregoing regulations in their application to Ireland shall have effect with the modification that the regulations shall not apply to any vehicles which are the property of the Crown, except in such cases and to such extent as the principal officer in Ireland of the department in whose possession or use the vehicles are, may, with the approval of the Minister, direct, and (in the case of any county as respects which an Order in Council under sub-section (3) of section 19 of the Roads Act, 1920, is for the time being in force) with the further modification that the identification plates in connection with general licences under Part II of these regulations shall be provided by the applicants for the licences, and shall conform to such specifications as the Minister may direct, and shall be produced before the licences are issued; and with such additional modifications as may be prescribed by the Order or may be necessary for carrying the provisions thereof into effect.

## FIRST SCHEDULE

FORMS PRESCRIBED FOR PURPOSES OF THESE REGULATIONS AND OBTAINABLE AT POST OFFICES OR AT THE OFFICE OF THE COUNCIL

*Form R.F. (1).*—Declaration for and particulars of motor cars, cycles and conveyances for invalids.

*Form R.F. (3).*—Declaration for and particulars of mechanically propelled vehicles exempt from licence duty.

*Form R.F. (3/1).*—Declaration for and particulars of mechanically propelled vehicles the property of the Crown.

*Form R.F. (4).*—Declaration for and particulars of mechanically propelled commercial goods vehicles.

*Form R.F. (4A).*—Declaration for and particulars of mechanically propelled commercial goods vehicles (over six vehicles of uniform type).

*Form R.F. (5).*—Declaration for and particulars of road locomotives, tractors and agricultural engines.

*Form R.F. (8).*—Declaration for and particulars of mechanically propelled hackney vehicles.

*Form R.F. (8A).*—Declaration for and particulars of mechanically propelled hackney vehicles (over six vehicles of uniform type).

*Form R.F. (9).*—Declaration for tramcars.

*Form R.F. (12/9).*—Certificate of weight.

*Form R.F. (1A).*—Renewal declaration for road vehicles.

*Form R.F. (13/8).*—Application for refund of part duty, 1913 engines.

*Form R.F. (10/1).*—Declaration for (horse drawn) carriage licences (including hackney carriage licences).

## SECOND SCHEDULE

## PART I

3 9/32"

EXPIRING

HP

SEAT CAPACITY

UW

TONS CWT

LBS.

£

S

000,001

19

DUTY

CAR NO

CLASS

MAKE

COLOUR

LICENCE FOR A MECHANICALLY PROPELLED VEHICLE

DATE STAMP OF OFFICE OF ISSUE

3 9/32"

LICENCE CARD.

## PART II

## FORM OF HOLDER FOR LICENCE CARDS

The holder must be of metal, and of weather-proof construction. It must be either circular, or rectangular with crossbars, and conform to the following dimensions :—

*Type A.—Circular Pattern, without Crossbars*

*Card Tray.*—The licence card of standard pattern, when cut along the outline of the outer of the two circles, should fit neatly into a sheet-metal tray of suitable thickness, having a turned-up edge of sufficient depth to hold the card and a stout cover glass.

*Ring Cover.*—A circular ring of sheet metal shaped to fit down closely on to the tray, and adapted for fixing, by screws, bolts, or otherwise, to the vehicle in the prescribed position. A rubber packing ring should be arranged to fit between the ring cover and the cover glass and tray so as to render the whole carrier weather-proof.

*Dimensions.*—The aperture within the ring cover should clearly exhibit the whole of the licence card lying within the inner circle of the licence card, and should have a diameter of  $2\frac{1}{16}$  inches.

*Type B.—Rectangular Pattern, with Crossbars*

*Card Tray.*—A sheet-metal tray of suitable thickness, having a turned-up edge all round, of a depth sufficient to hold the full-size standard licence card ( $3\frac{3}{8}$  inches long and  $3\frac{9}{16}$  inches wide) and a stout cover glass.

*Cover Frame.*—A cover frame, formed out of sheet metal, should be shaped to fit down closely on to the card tray, and adapted for fixing by screws, bolts, or otherwise, to the motor vehicle in the position previously described.

A rubber packing ring should be arranged to fit between the cover frame and the cover glass and tray, so as to render the whole carrier weather-proof.

*Dimensions.*—The main aperture within the cover frame should be  $3\frac{1}{8}$  inches long and  $3\frac{1}{16}$  inches wide, and be bisected axially by two bars intersecting at right angles, so as to leave four rectangular openings, each  $1\frac{3}{8}$  inches long and  $1\frac{1}{16}$  inches wide, clearly exhibiting the motor licence card.

## THIRD SCHEDULE

## PART I.—ENGLAND AND WALES

*A. County Councils*

Council.	Index Mark.	Council.	Index Mark.
County Council of—		County Council of—	
Anglesey . . .	EY	Cardigan . . .	EJ
Bedford . . .	BM & NM	Cardmarthen . . .	BX
Berks . . .	BL	Carnarvon . . .	CC
Brecknock . . .	EU	Chester . . .	M & MA
Bucks . . .	BH	Cornwall . . .	AF
Cambridge . . .	CE	Cumberland . . .	AO

Council.	Index Mark.	Council.	Index Mark.
County Council of—		County Council of—	
Denbigh . . . .	CA	London . . . .	XC
Derby . . . . .	R & NU		XD
Devon . . . . .	T & TA		XE
Dorset . . . . .	FX		XF &
Durham . . . . .	J		XH
Ely, Isle of . . .	EB	Merioneth . . .	FF
Essex . . . . .	F HK &	Middlesex . . .	H
	NO		MC
Flint . . . . .	DM		MD
Glamorgan . . .	L & NY		MX &
Gloucester . . .	AD		ME
Hereford . . . .	CJ	Monmouth . . .	AX
Hertford . . . .	AR & NK	Montgomery . .	EP
Huntingdon . . .	EW	Norfolk . . . .	AH
Kent . . . . .	D KN	Northampton . .	BD
	KT & KE	Northumberland .	X & NL
Lancaster . . . .	B & TB	Nottingham . . .	AL & NN
Leicester . . . .	AY & NR	Oxford . . . . .	BW
Lincolnshire—		Pembroke . . . .	DE
Parts of Holland .	DO	Peterborough, Soke of	FL
Parts of Kesteven .	CT	Radnor . . . . .	FO
Parts of Lindsey .	BE	Rutland . . . . .	FP
	A	Salop . . . . .	AW & NT
	LA	Somerset . . . .	Y & YA
	LB	Southampton . .	AA &
	LC		HO
	LD	Stafford . . . .	E & RE
	LE	Suffolk, East . .	BJ
	LF	Suffolk, West . .	CF
	LH	Surrey . . . . .	P PA &
	LK		PB
	LL	Sussex, East . .	AP
	LM	Sussex, West . .	BP
London . . . . .	LN	Warwick . . . .	AC & NX
	LO	Westmorland . .	EC
	LP	Wight, Isle of . .	DL
	LR	Wilts . . . . .	AM & HR
	LT	Worcester . . .	AB & NP
	LU	Yorkshire, East Rid-	
	LW	ing of . . . . .	BT
	LX	Yorkshire, North Rid-	
	LY	ing of . . . . .	AJ
	QQ	Yorkshire, West Rid-	
	XA	ing of . . . . .	C & WR
	XB		

## B. Councils of County Boroughs.

County Borough of—		County Borough of—	
Barnsley . . . .	HE	Blackburn . . . .	CB
Barrow-in-Furness .	EO	Blackpool . . . .	FR
Bath . . . . .	FB	Bolton . . . . .	BN
Birkenhead . . .	CM	Bootle . . . . .	EM
Birmingham . .	O	Bournemouth . .	EL
	OA	Bradford (Yorkshire) .	AK
	OB	Brighton . . . .	CD
	OE & OH	Bristol . . . . .	AE & HT

Council.	Index Mark.	Council.	Index Mark.
County Borough of—		County Borough of—	
Burnley . . . . .	CW	Newport (Mon.) . . . . .	DW
Burton-upon-Trent . . . . .	FA	Northampton . . . . .	NH
Bury . . . . .	EN	Norwich . . . . .	CL
Canterbury . . . . .	FN	Nottingham . . . . .	AU
Cardiff . . . . .	BO	Oldham . . . . .	BU
Carlisle . . . . .	HH	Oxford . . . . .	FC
Chester . . . . .	FM	Plymouth . . . . .	CO &
Coventry . . . . .	DU &		DR
	HP	Portsmouth . . . . .	BK
Croydon . . . . .	BY	Preston . . . . .	CK
Darlington . . . . .	HN	Reading . . . . .	DP
Derby . . . . .	CH	Rochdale . . . . .	DK
Dewsbury . . . . .	HD	Rotherham . . . . .	ET
Dudley . . . . .	FD	St. Helens . . . . .	DJ
Eastbourne . . . . .	HC	Salford . . . . .	BA
East Ham . . . . .	HM	Sheffield . . . . .	W &
Exeter . . . . .	FJ		WA
Gateshead . . . . .	CN	Smethwick . . . . .	HA
Gloucester . . . . .	FH	Southampton . . . . .	CR
Great Yarmouth . . . . .	EX	Southend-on-Sea . . . . .	HJ
Grimsby . . . . .	EE	Southport . . . . .	FY
Halifax . . . . .	CP	South Shields . . . . .	CU
Hastings . . . . .	DY	Stockport . . . . .	DB
Huddersfield . . . . .	CX	Stoke-on-Trent . . . . .	EH
Ipswich . . . . .	DX	Sunderland . . . . .	BR
Kingston-upon-Hull . . . . .	AT	Swansea . . . . .	CY
Leeds . . . . .	U &	Tynemouth . . . . .	FT
	NW	Wakefield . . . . .	HL
Leicester . . . . .	BC	Wallasey . . . . .	HF
Lincoln . . . . .	FE	Walsall . . . . .	DH
Liverpool . . . . .	K	Warrington . . . . .	ED
	KB &	West Bromwich . . . . .	EA
	KC	West Ham . . . . .	AN
Manchester . . . . .	N	West Hartlepool . . . . .	EF
	NA	Wigan . . . . .	EK
	NB & NC	Wolverhampton . . . . .	DA
Merthyr Tydfil . . . . .	HB	Worcester . . . . .	FK
Middlesbrough . . . . .	DC	York . . . . .	DN
Newcastle-upon-Tyne . . . . .	BB		

## PART II.—SCOTLAND

## A. County Councils

County Council of—		County Council of—	
Aberdeen . . . . .	SA	Haddington . . . . .	SS
Argyll . . . . .	SB	Inverness . . . . .	ST
Ayr . . . . .	SD	Kincardine . . . . .	SU
Banff . . . . .	SE	Kinross . . . . .	SV
Berwick . . . . .	SH	Kirkcudbright . . . . .	SW
Bute . . . . .	SJ	Lanark . . . . .	V
Caithness . . . . .	SK	Linlithgow . . . . .	SX
Clackmannan . . . . .	SL	Midlothian . . . . .	SY
Dumfries . . . . .	SM	Moray . . . . .	SO
Dunbarton . . . . .	SN	Nairn . . . . .	AS
Fife . . . . .	SP	Orkney . . . . .	BS
Forfar . . . . .	SR	Peebles . . . . .	DS

Council.	Index Mark.	Council.	Index Mark.
Perth . . . .	ES	Stirling . . . .	MS
Renfrew . . . .	HS	Sutherland . . . .	NS
Ross and Cromarty . . . .	JS	Wigtown . . . .	OS
Roxburgh . . . .	KS	Zetland . . . .	PS
Selkirk . . . .	LS		

*B. Burgh Councils*

Burgh Council of—		Burgh Council of—	
Aberdeen . . . .	RS	Govan * . . . .	US
Dundee . . . .	TS	Greenock . . . .	VS
Edinburgh . . . .	S & SG	Leith . . . .	WS
Glasgow . . . .	G & GA	Paisley . . . .	XS
		Partick * . . . .	YS
		Motherwell and Wishaw	GM

## PART III.—IRELAND

*A. County Councils*

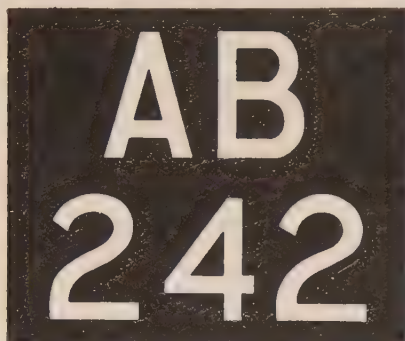
County Council of—		County Council of—	
Antrim . . . .	IA	Londonderry . . . .	IW
Armagh . . . .	IB	Longford . . . .	IX
Carlow . . . .	IC	Louth . . . .	IY
Cavan . . . .	ID	Mayo . . . .	IZ
Clare . . . .	IE	Meath . . . .	AI
Cork . . . .	IF	Monaghan . . . .	BI
Donegal . . . .	IH	Queen's County . . . .	CI
Down . . . .	IJ	Rosecommon . . . .	DI
Dublin . . . .	IK	Sligo . . . .	EI
Fermanagh . . . .	IL	Tipperary, N. Riding	FI
Galway . . . .	IM	Tipperary, S. Riding	HI
Kerry . . . .	IN	Tyrone . . . .	JI
Kildare . . . .	IO	Waterford . . . .	KI
Kilkenny . . . .	IP	Westmeath . . . .	LI
King's County . . . .	IR	Wexford . . . .	MI
Leitrim . . . .	IT	Wicklow . . . .	NI
Limerick . . . .	IU		

*B. Councils of County Boroughs*

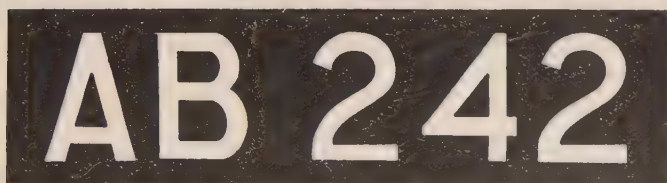
Council of the County Borough of—		Council of the County Borough of—	
Belfast . . . .	OI & XI	Limerick . . . .	T
Cork . . . .	PI	Londonderry . . . .	U
Dublin . . . .	RI & YI	Waterford . . . .	W

\* These Burghs are now included in the City of Glasgow.

FOURTH SCHEDULE  
*Alternative Diagram No. 1*



*Alternative Diagram No. 2*



The alternative diagrams above are specimen plates drawn approximately to a scale of one-third (*a*). The actual size of the plates will, however, differ according to the number of letters and figures required.

*Provisions to be complied with.*

(1) Each plate must be rectangular and bear upon it the index mark and registration number entered in the register in respect of the vehicle, the mark and number being arranged in conformity with the arrangement of letters and figures shown on one or other of the alternative diagrams.

(2) The two plates may, at the option of the owner, be of either of the shapes shown in the alternative diagrams, or one of one shape and one of the other.

(3) The ground of the plate must be black, the letters and figures must be indelibly inscribed thereon white.

(4) All letters and figures must be three-and-a-half inches high; every part of every letter and figure must be five-eighths of an inch broad; and the total width of the space taken by every letter or figure, except in the case of the figure 1, must be two-and-a-half inches.

(5) The space between adjoining letters and between adjoining figures must be half-an-inch, and there must be a margin between the nearest part of any letter or figure and the top and bottom of the plate of at least half-an-inch, and between the nearest part of any letter or figure and the sides of the plate of at least one inch.

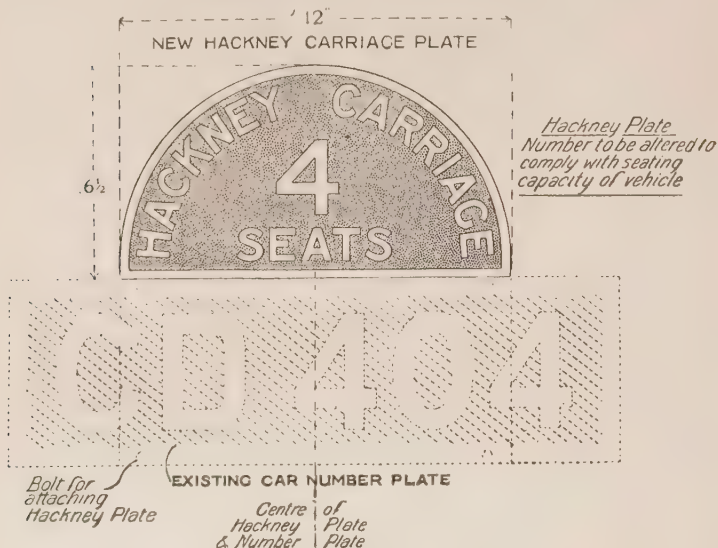
(6) In the alternative diagram No. 1, the space between the upper and lower line must be three-quarters of an inch. In the alternative diagram No. 2 the space between the letters and the figures must be one-and-a-half inches.

(*a*) Here reduced.

(7) In the case of the plates for a motor tricycle or motor bicycle of a weight unladen not exceeding three hundredweights, each of the dimensions mentioned above may be halved, and the shape of the plate need not be rectangular so long as the minimum margin between any letter or figure and the top, bottom and sides of the plate and the relative positions of letters and figures in accordance with Clause (1) of these provisions are preserved.

#### FIFTH SCHEDULE

##### *Diagram of plate for hackney vehicles*



The diagram above is a specimen plate drawn approximately to the scale of one-fourth (a).

##### *Provisions to be complied with*

(1) The Hackney Carriage Plate is to be constructed of approximately semi-circular shape and to the size shown upon the foregoing diagram, and is to be securely attached to and carried upon the upper edge of the rear number plate of the motor car and centrally disposed thereon.

(2) The plate may be of sheet iron with an enamelled face having white border, letters and number upon a black ground or, alternatively, may be constructed of cast aluminium having raised border, letters and number in polished metal upon a black ground.

(3) The width of the surrounding border must be  $\frac{1}{4}$  inch, the depth of all letters 1 inch, and the width of face of letters  $\frac{3}{16}$  inch; the numerals must be  $2\frac{1}{2}$  inches in height, of proportional width and  $\frac{3}{8}$  inch width of face.

(4) The Hackney Carriage Plate is to be securely and substantially fixed, by bolts or otherwise, to the rear number plate, and a method of attachment is indicated in the foregoing diagram.

(5) The Hackney Carriage Plate is to be so fixed upon the vehicle as to be substantially in the same vertical plane as the car number plate, and be at all times clearly visible and unobstructed by car equipment or otherwise.

(6) A number indicating the seating capacity of the vehicle is to be disposed in the central position occupied by the figure "4" in the diagram.

(a) Here reduced.

SIXTH SCHEDULE

The Motor Car (Registration and Licensing) Order, 1903. (S.R. & O., 1903, No. 998.)	Part I and the First, Second, Third and Fourth Schedules thereof shall cease to have effect.
The Motor Car Registration and Licensing (Scotland) Order, 1903. (S.R. & O., 1903, No. 1001.)	Part I and the First, Second, Third and Fourth Schedules thereof shall cease to have effect.
The Motor Car (Registration and Licensing) (Ireland) Order, 1903. (S.R. & O., 1903, No. 1002.)	Part I and the First, Second, Third and Fourth Schedules thereof shall cease to have effect.
The Heavy Motor Car Order, 1904, as amended by subsequent Orders. (S.R. & O., 1904, No. 1809.)	Article IV except sub-section (4) thereof shall cease to have effect and the said sub-section (4) shall have effect as though the words "Upon receiving from the registering authority a copy of the entries made in the register relating to a heavy Motor Car" were omitted. Article XV and the Schedule to the said Order shall cease to have effect.
The Heavy Motor Car (Scotland) Order, 1905, as amended by subsequent Orders. (S.R. & O., 1905, No. $\frac{1}{S.1.}$ )	Article IV except sub-section (4) thereof shall cease to have effect and the said sub-section (4) shall have effect as though the words "Upon receiving from the registering authority a copy of the entries made in the register relating to a heavy Motor Car" were omitted. Article XV and the Schedule to the said Order shall cease to have effect.
The Heavy Motor Car (Ireland) Order, 1905, as amended by subsequent Orders. (S.R. & O., 1905, No. 71.)	Article IV except sub-section (4) thereof shall cease to have effect and the said sub-section (4) shall have effect as though the words "Upon receiving from the registering authority a copy of the entries made in the register relating to a heavy Motor Car" were omitted. Article XV and the Schedule to the said Order shall cease to have effect.
The Motor Car (Hackney Carriage Plate) Order, 1916. (S.R. & O., 1916, No. 720.)	The whole Order shall cease to have effect.
The Motor Car (Hackney Carriage Plate) (Scotland) Order, 1916. (S.R. & O., 1916, No. $\frac{765}{S.53.}$ )	The whole Order shall cease to have effect.
The Motor Car (Hackney Carriage Plate) (Ireland) Order, 1916. (S.R. & O., 1916, No. 780.)	The whole Order shall cease to have effect.

Given under the Seal of the Minister of Transport, this 9th day of March,  
One thousand nine hundred and twenty-one.

(L.S.)

*R. Francis Dunnell,*  
Secretary.

## STATUTORY RULES AND ORDERS, 1921

No. 1574

## ROAD VEHICLES

## MOTOR CARS

THE MOTOR CAR (INTERNATIONAL CIRCULATION) (AMENDMENT)  
ORDER, 1921

At the Court at Balmoral, the 27th day of September, 1921. Present, The King's Most Excellent Majesty in Council.

WHEREAS by section 1 of the Motor Car (International Circulation) Act, 1909 (*a*), it is enacted as follows:—

1. (1) His Majesty may by Order in Council, for the purpose of giving effect to any convention for facilitating the international circulation of motor cars, provide—

(*a*) for the grant and authentication of any travelling passes, certificates, or authorities which may be of use to persons resident in the United Kingdom when temporarily taking their motor car abroad, or to drivers when proceeding abroad for the purpose of driving motor cars; and

(*b*) for modifying the provisions of the Motor Car Act, 1903 (*b*), relating to the registration of motor cars and the licensing of motor car drivers in the case of motor cars brought temporarily into the United Kingdom by persons resident abroad, and intending to make only a temporary stay in the United Kingdom, and of drivers entering the United Kingdom for the purpose of driving any such cars.

(2) Any modifications of the Motor Car Act, 1903, made by an Order in Council under this section shall have effect as if they were contained in that Act.

(3) Any Order in Council under this Act may be varied or revoked by any subsequent Order in Council under this Act.

And whereas provision has been made for the said purposes by the Motor Car (International Circulation) Order, 1910 (*c*):

And whereas the Motor Car Act, 1903, has been amended by the Roads Act, 1920 (*d*), and it is therefore expedient that the Motor Car (International Circulation) Order, 1910, should be varied in manner hereinafter appearing:

Now, therefore, His Majesty is pleased, by and with the advice of His Privy Council, to order, and it is hereby ordered, as follows:—

1. Part II. and Part III. of the Motor Car (International Circulation) Order, 1910, and so much of the Second Schedule thereto as relates to forms C, D and E therein set out are hereby revoked without prejudice to the validity of any action taken thereunder.

(*a*) 9 E. 7, c. 37.

(*c*) S.R. & O., 1910, No. 421.

(*b*) 3 E. 7, c. 36.

(*d*) 10-1 G. 5, c. 72.

2. Any person in charge of a motor car brought temporarily into the United Kingdom by a person resident abroad and intending to make only a temporary stay in the United Kingdom may, on production of the International Travelling Pass issued in respect of such car, make application for the issue to the person or persons whose name or names appear on the pass as a driver or drivers of such car of a licence or licences to drive such car in manner prescribed by Regulations made from time to time by the Minister of Transport.
3. (1) In this paragraph the expression "the Act" means the Motor Car Act, 1903, as amended by the Roads Act, 1920.  
(2) In the application of the Act to any persons licensed to drive a motor car in pursuance of paragraph 2 of this Order, the following modifications of the Act shall have effect:—
  - (i) In sub-section (2) of section 1 of the Act there shall be added after the words "or produce his licence on demand" the words "or produce on demand the licence issued to him in pursuance of paragraph 2 of the Motor Car (International Circulation) (Amendment) Order, 1921, and the International Travelling Pass issued in respect of such car."
  - (ii) Any person to whom a licence to drive a motor car has been issued in pursuance of paragraph 2 of this Order shall be deemed to be licensed under section 3 of the Act and a person driving the motor car with reference to which such licence has been issued who produces such licence shall be deemed to have complied with the requirements of sub-section (4) of that section.
  - (iii) Paragraphs (a) and (c) of sub-section (1) and sub-sections (2), (3) and (5) of section 4 of the Act shall apply to any licence issued in pursuance of paragraph 2 of this Order as if such licence were a licence granted under the Act, provided that the London County Council shall be substituted for the Council referred to in the said paragraph (c) as the authority to whom a copy of the particulars therein mentioned shall be sent.
4. For the purposes of Section 6 of the Government of Ireland Act, 1920 (e), this Order shall be deemed to have been made prior to the appointed day.
5. (i) This Order may be cited as the Motor Car (International Circulation) (Amendment) Order, 1921.  
(ii) This Order shall come into operation as from the date hereof.

*Alexander Hardinge.*

## PROVISIONAL RULES AND ORDERS

## ROAD VEHICLES

THE ROAD VEHICLES (INTERNATIONAL CIRCULATION PERMIT) REGULATIONS, 1921, MADE BY THE MINISTER OF TRANSPORT. DATED NOVEMBER 12, 1921.

WHEREAS by section 13 of the Finance Act, 1920 (10 & 11 Geo. 5, c. 18), certain duties of excise are made chargeable in respect of mechanically propelled vehicles used on public roads, and it is enacted that the Minister of Transport (hereinafter called "the Minister") may make regulations providing for the total or partial exemption for a limited period from the duty payable under that section of any vehicle brought into the United Kingdom by persons making only a temporary stay in the United Kingdom.

And whereas by the Roads Act, 1920 (10 & 11 Geo. 5, c. 72), provision was made for the levying of the said duties by County Councils, and it was enacted that the Minister might make regulations for extending any provisions as to registration and provisions incidental to any such provisions to any vehicles in respect of which duty under section 13 of the Finance Act, 1920, is not payable and for providing for the identification of any such vehicles and otherwise for the purpose of carrying that Act into effect,

And whereas the Minister has by the Road Vehicles (Registration and Licensing) Regulations, 1921, made regulations for the purpose of carrying the said Roads Act, 1920, into effect.

And whereas by the Motor Car (International Circulation) (Amendment) Order, 1921, it is provided that the Minister may make regulations as to the application by persons in charge of motor cars brought temporarily into the United Kingdom by persons resident abroad and intending to make only a temporary stay in the United Kingdom for the issue of licences to drive such cars.

Now, therefore, the Minister hereby certifies under section 2 of the Rules Publication Act, 1893 (56 & 57 Vict. c. 66), that on account of urgency these Regulations should come into immediate operation, and in exercise of the powers conferred upon him by the Finance Act, 1920, and the Roads Act, 1920, and the Motor Car (International Circulation) (Amendment) Order, 1921, and of all other powers enabling him in this behalf hereby, without prejudice to any further exercise of the said powers, makes and prescribes the following Regulations, to come into operation forthwith as Provisional Regulations, that is to say:—

1. These Regulations may be cited as the Road Vehicles (International Circulation Permit) Regulations, 1921.

2. In these Regulations—

The expression "Registration Authority" means either the Royal Automobile Club, the Automobile Association and Motor Union or the London County Council.

The expression "Council" means County Council as defined in the Roads Act, 1920.

The expression "International Travelling Pass" means an Inter-

national Travelling Pass issued in accordance with Article 3 of First Schedule to the Motor Car (International Circulation) Order, 1910.

The expression "Local Taxation Officer" means the selected officers of the Council to whom powers or duties similar to those exercisable or performed by officers of Customs and Excise have been delegated by the Council.

The expression "Owner" means the person by whom the vehicle is kept and used.

3. Any person who shall obtain an International Circulation Permit under these Regulations (hereinafter called "Permit") in respect of a mechanically propelled vehicle and shall otherwise comply with these Regulations shall subject to the provisions of Regulation 16 (ii) (c) hereof be exempt during the period for which such permit is valid from the duty payable under section 13 of the Finance Act, 1920, in respect of that vehicle.

4. Any person making only a temporary stay in the United Kingdom who brings into the United Kingdom a vehicle in respect of which duty is, apart from these Regulations, imposed upon him by section 13 of the Finance Act, 1920, and who desires to obtain a Permit in respect of that vehicle shall apply to a Registration Authority by means of an application in the Form A set out in the First Schedule hereto, and if the applicant is the holder of an International Travelling Pass shall forward such International Travelling Pass with the application.

5. (i) Permits shall be in the Form B set out in the Second Schedule hereto.

(ii) The Permit shall be carried upon the vehicle in like manner as if it were a Licence issued under the Roads Act, 1920, and the Road Vehicles (Registration and Licensing) Regulations, 1921, and the provisions of sub-sections (2) and (3) of Regulation 4 of those Regulations and Part II. of the Second Schedule thereto shall apply accordingly.

(iii) A Registration Authority may, if they think fit, supply to the person to whom a Permit is issued if he so desires a holder for the Permit and make a charge for it.

6. A Registration Card containing such particulars relative to the vehicle in respect of which it is issued, as the Minister may from time to time direct, shall be issued to every owner of a mechanically propelled vehicle in respect of which a Permit is issued. The Registration Card shall be produced for inspection by the owner at any reasonable time upon request by a Police Officer or Local Taxation Officer.

7. (1) No person shall deface or mutilate any Permit or Registration Card or alter or obliterate any entry made therein or make any addition thereto, or make or exhibit any colourable imitation thereof.

(2) If a Permit or Registration Card issued by a Registration Authority under these Regulations has been lost, destroyed, or accidentally defaced, the owner of the vehicle may apply to the Registration Authority for the issue to him of a duplicate Permit or Registration Card, as the case may be, and the Registration Authority upon being satisfied as to such loss, destruction or defacement and, where the Permit or Registration Card has been accidentally defaced, upon the surrender of the Permit or Registration Card so defaced, shall issue a duplicate so marked on payment of

a fee of five shillings, and the duplicate so issued shall have the same effect as the original Permit or Registration Card.

8. Upon receipt by a Registration Authority of an application for a Permit the Registration Authority to whom such application is made shall, if they are satisfied that the owner is making only a temporary stay in the United Kingdom and that the vehicle in respect of which the application is made has been brought by the owner into the United Kingdom,—

- (i) issue to the owner a Permit, and
- (ii) enter thereon before issue thereof—
  - (a) the index mark and registration number of the vehicle ;
  - (b) the date to which the Permit is valid ; and
  - (c) a stamp or other sufficient mark indicating the name of the Registration Authority by whom the Permit is issued and the date of issue ;
- (iii) prepare and issue to such owner the Registration Card with the appropriate particulars entered thereon, such Registration Card being affixed to the International Travelling Pass (if any) held by the owner in respect of the vehicle ;
- (iv) if the owner is the holder of a valid International Travelling Pass issued in respect of the vehicle, issue a licence or licences in the Form C set out in the Third Schedule hereto to drive such vehicle to the person or persons whose name or names appear in the Pass as driver or drivers of the vehicle ; and
- (v) retain the application, and advise the Commissioner of Police of the Metropolis of the issue of such permit and licence (if any).

9. The index mark and registration number of a vehicle in respect of which a Permit is issued shall be—

- (i) in the case of a vehicle brought into the United Kingdom from a country which is a party to the International Circulation Convention by a person holding a valid International Travelling Pass issued in respect of such vehicle by that country, the registration number allotted to the vehicle by that country ; and
- (ii) in the case of any other vehicle an index mark consisting of the letters Q Q and a registration number assigned by the Registration Authority issuing the Permit.

10. (i) An identification mark as prescribed in the preceding Regulation shall be carried by a vehicle in respect of which an International Circulation Permit has been issued and shall be exhibited in like manner as if it were an identification mark assigned under the Roads Act, 1920, and Regulations 21 to 25 inclusive of the Road Vehicles (Registration and Licensing) Regulations, 1921, and the Fourth Schedule thereto shall apply accordingly.

(ii) A Registration Authority which assigns an index mark or registration number to a vehicle under these Regulations may, if they think fit, supply to the owner of such vehicle if he so desires the plates forming the identification mark of the vehicle and make a charge for them.

11. Each Registration Authority shall establish and maintain in such form as the Minister may direct a register of vehicles in respect of which Permits are issued and a register of licences to drive such vehicles issued under these Regulations.

12. A Permit shall be valid until the expiration of a period of four months from the date upon which the vehicle in respect of which such Permit is issued was brought into the United Kingdom unless previously surrendered. Provided that if the applicant for a Permit has at any time during the period of one year immediately preceding the date of application been the holder of another Permit then in such case the period of four months above referred to shall be reduced by the number of days for which such other Permit was in force.

13. If a vehicle in respect of which a Permit has been issued is broken up or destroyed or is sold or otherwise transferred to some person other than the person to whom such Permit was issued during the period for which such Permit is valid the person to whom such Permit was issued shall forthwith inform the Registration Authority by whom the Permit was issued of such breaking up, destruction, sale or other transfer, and in the case of a sale or other transfer of the name and address of the person to whom the vehicle has been so sold or transferred, and shall at the same time surrender to the said Registration Authority the Permit and Registration Card issued in respect of the said vehicle; and the Registration Authority shall advise the Commissioner of Police of the Metropolis of the surrender of such Permit.

14. If the vehicle in respect of which a Permit has been issued is about to be removed from the United Kingdom during the period for which such Permit is valid the person to whom such Permit was issued shall before such vehicle is removed from the United Kingdom surrender the Permit and Registration Card to the Registration Authority by whom such Permit and Card were issued; and the Registration Authority shall advise the Commissioner of Police of the Metropolis of the surrender of such Permit.

15. When any vehicle in respect of which a Permit has been issued is broken up or destroyed or removed from the United Kingdom or sold or otherwise transferred from the owner to some person in the United Kingdom, the index mark and registration number assigned to the vehicle under Regulation 9 hereof shall become void and shall not be assigned to any vehicle to be used in the United Kingdom. Provided that—

- (i) if the person to whom the said Permit is issued shall at any time within three years after the date of issue of such Permit apply for another Permit in respect of the same vehicle the said index mark and registration number may be assigned to such vehicle; and
- (ii) nothing herein contained shall render such index mark and registration number invalid for the purposes of an International Travelling Pass issued in the United Kingdom for travelling in other countries.

16. (i) Any person to whom a Permit has been issued in respect of a vehicle shall before using such vehicle at any time after the expiration of the period for which such Permit was valid apply for and obtain a Licence under the Finance Act, 1920, as amended by the Roads Act, 1920.

(ii) For the purposes of this Regulation the Road Vehicles (Registration and Licensing) Regulations, 1921, shall be modified as follows:—

- (a) If the owner satisfies the Council within whose area he is temporarily residing that the vehicle is not ordinarily kept within the area of any Council and that he has no principal place of business or permanent postal address in the United Kingdom, application

for a licence may be made to the said Council and a licence issued by them.

- (b) The owner shall, together with his Declaration, forward to the Council the Permit and Registration Card issued to him.
- (c) The Council shall not issue a licence to a person making application therefor in pursuance of this Regulation until such person shall have paid to them the full amount of the duty which would if such Permit had not been issued have been payable by him in respect of the period for which such Permit was valid together with the amount of duty payable in respect of the licence applied for provided that nothing herein contained shall operate so as to render such a person liable to pay a greater amount of duty than he would have paid if he had at the time when the vehicle was last brought into the United Kingdom obtained and subsequently renewed from time to time a licence which or the renewals of which would expire at the same date as the licence for which application is made in pursuance of this Regulation.
- (d) The Council shall advise the Commissioner of Police of the Metropolis and the Registration Authority by whom the Permit was issued of the receipt of the Permit and the issue of such licence by them.
- (e) The index mark and registration number to be assigned by the Council shall, if the person making application in pursuance of this Regulation so desire, be the index mark and registration number of the vehicle under Regulation 9 hereof, provided that at the expiration of one year from the date upon which the vehicle was last brought into the United Kingdom such index mark and registration number shall become void and the Council shall upon application being made to them by the owner assign a new index mark and registration number in accordance with the Road Vehicles (Registration and Licensing) Regulations, 1921.

17. Any officer authorised by a Registration Authority is empowered to perform any duty or exercise any power of the Registration Authority for the purpose of carrying these Regulations into effect.

18. For the purposes of Section 6 of the Government of Ireland Act, 1920, these Regulations shall be deemed to have been made prior to the appointed day.

19. The Interpretation Act, 1889, applies for the purpose of the interpretation of these Regulations as it applies for the purpose of interpretation of an Act of Parliament.

## FIRST SCHEDULE

### FORM A

#### FINANCE ACT, 1920, SECTION 13 (5) : DECLARATION AND APPLICATION FOR ISSUE OF INTERNATIONAL CIRCULATION PERMIT

I request that you will issue to me a permit for the vehicle described below :—

1. Description of Car \_\_\_\_\_  
(e.g., Motor Car, Motor Cycle, etc.).
2. Name of Manufacturer \_\_\_\_\_
3. } Body { Shape \_\_\_\_\_
4. } of { Colour \_\_\_\_\_
5. } Car { Number of Seats \_\_\_\_\_

# INTERNATIONAL CIRCULATION PERMIT REGULATIONS 387

6. Weight of Car unladen (*in kilogrammes*) \_\_\_\_\_
7. Letters and Numbers on the Identification Plates \_\_\_\_\_  
(*if any*).

I undertake to deliver up the permit on or before its expiry to the Authority (County Council, Royal Automobile Club, or Automobile Association) by whom it was issued; I declare that I intend to make only a temporary stay in the United Kingdom; I understand that if I stay for more than four months I become liable to the ordinary licence duty from the date of landing in the United Kingdom; and I declare that since 1st January, 1921, I have held no United Kingdom Circulation Permit, *except as follows* \* :—

Where Issued.      \*

Approximate Period for which used.

Signature of Owner \_\_\_\_\_

Name in full (in BLOCK CAPITALS) \_\_\_\_\_

Postal Address (if any) in United Kingdom \_\_\_\_\_

Home Address \_\_\_\_\_

Port of Landing \_\_\_\_\_

Date of Landing \_\_\_\_\_

\* Cross out words in *italics* if not applicable.

## SECOND SCHEDULE

### FORM B

Car No.			Day
Month			
Date			Office
Stamp			of
of			Issue

## THIRD SCHEDULE

## FORM C

MOTOR CAR (INTERNATIONAL CIRCULATION (AMENDMENT))  
ORDER, 1921. ROAD VEHICLES (INTERNATIONAL CIRCULATION PERMIT) REGULATIONS, 1921.

LICENCE TO PERSON NAMED IN AN INTERNATIONAL TRAVELLING PASS TO  
DRIVE A MOTOR CAR

\_\_\_\_\_ (a)

of \_\_\_\_\_

\_\_\_\_\_ (b)

is hereby licensed to drive a Motor Car \_\_\_\_\_ (c)

from the date of issue of this licence until \_\_\_\_\_ 192 \_\_\_\_\_ (d)  
inclusive.

Date of issue \_\_\_\_\_ Signature of issuing officer \_\_\_\_\_

on behalf of \_\_\_\_\_ (e)

*Note.*—Particulars to be copied from International Travelling Pass:—

(a) full name of driver;

(b) home address of driver;

(c) letters and numbers on the identification plates of the car.

At (d) insert the date of expiration of the International Travelling Pass.  
(The date inserted in *this* licence must in no case be a date later than one year  
after the date of issue of this licence.)

Given under the Seal of the Minister of Transport this 12th day of  
November, One thousand nine hundred and twenty-one.

(L.S.)

546.

F.C.G.

*H. H. Piggott,*  
An Assistant Secretary.

## STATUTORY RULES AND ORDERS, 1921

No. 1843

## ROAD VEHICLES

THE ROAD VEHICLES (PART YEAR LICENSING) ORDER, 1921, DATED  
DECEMBER 5, 1921, MADE BY THE MINISTER OF TRANSPORT

To the County Councils of the several Administrative Counties in  
Great Britain and in Southern Ireland;

To the Councils of the several County Boroughs in England and  
Wales and in Southern Ireland and of the Royal Parliamentary  
and Police Burghs concerned in Scotland;

And to all others whom it may concern,

The Minister of Transport, in exercise of the powers conferred on him by Section 22 of the Finance Act, 1921 (11 & 12 Geo. 5, c. 32), and without prejudice to the further exercise of those powers, hereby orders as follows :—

1. This Order may be cited as the Road Vehicles (Part Year Licensing) Order, 1921.

2. In this Order :

The expression “quarterly period” means any of the periods from the first day of January to the twenty-fourth day of March, from the twenty-fifth day of March to the thirtieth day of June, from the first day of July to the thirtieth day of September, or from the first day of October to the thirty-first day of December in any year.

The expression “cycles” means the vehicles chargeable with duty under paragraph 1 of the Second Schedule to the Finance Act, 1920 (a).

The expression “licences” does not include general licences for manufacturers of or dealers in mechanically propelled vehicles.

3. The mechanically propelled vehicles to which this Order applies are mechanically propelled vehicles chargeable with duty under the Finance Act, 1920, other than tramcars and vehicles on which a duty of five shillings is chargeable under that Act.

4. The periods of the year for which licences under the Finance Act, 1920, in respect of mechanically propelled vehicles to which this Order applies may be taken out shall be either the period of one calendar year, or any of such periods less than a year as are hereinafter specified, and the duties payable in respect of licences for periods less than a year shall be at the rates hereinafter specified ; that is to say :—

(a) In the case of such mechanically propelled vehicles other than cycles—

- (i) A licence may be taken out for any period less than a year expiring on the thirty-first day of December in any year and if the same is taken out on or after any of the dates mentioned in the first column of the First Schedule hereto the duty payable on such licence shall be the proportion of the full annual rate of duty specified in relation to each of such dates respectively in the second column of the said Schedule ;
- (ii) A licence may be taken out for any quarterly period on payment of three-tenths of the full annual duty ; and
- (iii) A licence may be taken out for any period less than a quarterly period expiring on the last day of any quarterly period, and the duty payable on such licence shall if the licence is taken out on or after the first day of the second month of the quarterly period be two-thirds of the full quarterly rate of duty or shall if the licence is taken out on or after the first day of the third month of the quarterly period be one-third of the full quarterly rate of duty : provided that for the purposes of the foregoing provision in respect of any quarterly period ending on the thirtieth day of June, the first day of the second month shall be deemed to be the first day of May,

and the first day of the third month shall be deemed to be the first day of June ;

- (b) In the case of cycles a licence may be taken out for any quarterly period on payment of duty of the amounts specified in the second column of the Second Schedule hereto in relation to the cycles described in the first column of the said Schedule respectively.

5. (1) For the purposes of Section 6 of the Government of Ireland Act, 1920 (a), this Order shall as regards Southern Ireland be deemed to have been made prior to the appointed day.

(2) This Order does not extend to Northern Ireland.

6. This Order shall remain in force until rescinded or modified by the Minister of Transport.

### FIRST SCHEDULE

*In respect of mechanically propelled vehicles to which the foregoing Order applies other than cycles*

Dates on and after which licences may be taken out at reduced rates of duty.	Proportion of full annual duty payable.
1st March.	Nine-tenths.
1st April.	Eight-tenths.
1st May.	Seven-tenths.
1st June.	Six-tenths.
1st July.	Five-tenths.
1st August.	Five-tenths.
1st September.	Four-tenths.

### SECOND SCHEDULE

*In respect of cycles.*

Description of cycle.	Amount of duty payable for quarterly licence.
Bicycle, weight unladen not exceeding 200 lbs. . . . .	ten shillings.
Bicycle, weight unladen not exceeding 200 lbs. with right to draw trailer or sidecar . . . . .	fifteen shillings.
Bicycle, weight unladen exceeding 200 lbs. but not exceeding 8 cwt. . . . .	one pound.
Bicycle, weight unladen exceeding 200 lbs. but not exceeding 8 cwt. with right to draw trailer or sidecar . . . . .	one pound five shillings.
Tricycle, not exceeding 8 cwt. in weight unladen . . . . .	one pound five shillings.

Given under the Seal of the Minister of Transport, this fifth day of December, One thousand nine hundred and twenty-one.

(L.S.)  
656.

H. H. Piggott,  
Assistant Secretary.

## FINANCE ACT, 1921

22. (1) On and after the first day of January, nineteen hundred and twenty-two, licences under the Finance Act, 1920, in respect of mechanically propelled vehicles (other than tramcars or vehicles on which a duty of five shillings is chargeable under that Act) may be taken out for such periods of the year and on payment of duty at such rates as the Minister of Transport may by order prescribe :

Provided that—

- (a) every rate of duty prescribed under this section in respect of a licence taken out for any vehicle for any period of the year shall be such as to bear to the full annual duty chargeable in respect of that vehicle no less proportion than the period for which the licence is taken out bears to a year ; and
- (b) the rate of duty so prescribed in respect of a licence for any vehicle to which proviso (a) to subsection (2) of section thirteen of the Finance Act, 1920, applies for any such period as is mentioned in that proviso shall not exceed thirty per cent. of the full annual duty, and the rate prescribed in respect of a licence for a cycle taken out on or after the first day of October in any year shall not exceed one-half of the full annual duty.

(2) Proviso (a) to subsection (2) of section thirteen of the Finance Act, 1920, and the words “ cycle or ” in proviso (b) to the said subsection are hereby repealed.



## PROVISIONAL RULES AND ORDERS

## ROAD VEHICLES

ROAD VEHICLES (TRADE LICENCES) REGULATIONS, 1922. DATED  
DECEMBER 14TH, 1922.

To the County Councils of the several administrative Counties in Great Britain.

To the Councils of the several County Boroughs in England and Wales, and of the Royal Parliamentary and Police Burghs concerned in Scotland.

And to all others whom it may concern.

The Minister of Transport hereby certifies under Section 2 of the Rules Publication Act, 1893 (56 & 57 Vict., c. 66), that on account of urgency these Regulations should come into immediate operation, and under the powers conferred on him by the Roads Act, 1920 (10 & 11 Geo. 5, c. 72), and by the Order in Council made thereunder and by Section 15 of the Finance Act, 1922 (12 & 13 Geo. 5, c. 17), and any and every other power him thereunto enabling hereby, without prejudice to any further exercise of the same powers, makes the following Regulations to come into operation forthwith as Provisional Regulations with respect to Trade Licences, that is to say :—

1. (1) These Regulations may be cited as “The Road Vehicles (Trade Licences) Regulations, 1922.”

(2) In these Regulations the expression “Council” means County Council as defined in the Roads Act, 1920 : the expression “approved” means approved by the Minister of Transport.

The expression “Local Taxation Officer” means the selected Officers of the Council to whom powers or duties exercisable or performed by Officers of Customs and Exise have been delegated by the Council.

The expression “prescribed form” means the form approved by the Minister and obtainable on application at the office of the Council.

The expression “person” includes any body of persons corporate or unincorporate ; the expression “vehicle” means “mechanically-propelled vehicle.”

The expression “General Trade Licence” means a licence to which paragraph (a) of Sub-section (2) of Section 15 of the Finance Act, 1922, relates ; the expression “Limited Trade Licence” means a licence to which paragraph (b) of Sub-section (2) of Section 15 of the Finance Act, 1922, relates.

2. Part 2 of the Road Vehicles (Registration and Licensing) Regulations, 1921, relating to general licences for manufacturers of or dealers in mechanically-propelled vehicles and general identification marks is hereby revoked and the said Regulations shall apply and have effect as though these Regulations were inserted therein in substitution for Part 2 thereof.

*General Trade Licences.*

3. The following set of Regulations shall apply to General Trade Licences, that is to say :—

Article A.—A person being a manufacturer or repairer of or a dealer in mechanically-propelled vehicles who desires pursuant to the Roads Act, 1920, as amended by Section 15 of the Finance Act, 1922, to obtain a General Trade Licence in respect of :—

- (a) all vehicles used by him, or
- (b) all vehicles used by him of the classes liable to duty under paragraphs 1 and 2 of the 2nd Schedule to the Finance Act, 1920

shall apply to the Council in whose area his business premises are situate by means of a declaration in the prescribed form.

Article B.—(1) The Council on being satisfied that the applicant is *bona fide* a manufacturer, dealer in or repairer of mechanically-propelled vehicles may issue to him the appropriate licence card in accordance with the application. Every such card shall contain :—

- 1. Name and address of person to whom the licence is issued.
- 2. Number of identification plate allotted.
- 3. Date of expiry of licence.
- 4. Amount of duty paid.
- 5. Date stamp of office of issue.
- 6. Serial number of licence.

(2) The Council shall supply free of charge with each General Trade Licence, one plate (with a holder for the licence card) for fixing in front and one plate for fixing at the back of a vehicle provided that where application is made and duty paid in respect of a licence for all vehicles the applicant upon application made to the Council in the prescribed manner and upon satisfying the Council that such licence plates are properly required by him shall also be entitled without further payment to licence plates appropriate for the classes of vehicles liable to duty under paragraphs 1 and 2 of the 2nd Schedule to the Finance Act, 1920.

(3) The plates and licence holder to be supplied by the Council shall conform to such specifications as the Minister of Transport may from time to time direct and shall not be altered in any way after they have been so supplied. They shall remain the property of the Council and be returned forthwith to the Council whenever the licence in respect of which they were issued is not renewed.

(4) The plates shall be fixed in front and at the back of the vehicle upon which they may be in use in the manner prescribed by the Road Vehicles (Registration and Licensing) Regulations, 1921, with respect to the index mark and registration number assigned to vehicles under those Regulations and shall be carried at all times when the vehicle is in use on a public road under a general trade licence.

The licence card without any alteration thereof or addition thereto shall be carried, properly fixed in the holder attached to the front plate so as to be clearly visible at all times by daylight from in front of the vehicle, at all times when a vehicle is in use on a public road under that licence.

Article C.—A General Trade Licence shall not be used by any person other than the person to whom the same is issued and the person to whom the same is issued shall not allow or suffer the licence or the plates issued in connection therewith to be used by any other

person, but no offence under this Article shall be deemed to have been committed if the person to whom the licence is issued or a person *bona fide* in his employ and acting under his authority is present and in charge of the vehicle or if such vehicle is constructed for use by one person only and is being used by a prospective purchaser for the purpose of test or trial.

Article D.—(i) A General Trade Licence shall not be used upon any vehicle other than a vehicle which is in the possession of the holder of such licence in the course of his business as a manufacturer or repairer of or dealer in mechanically-propelled vehicles.

(ii) A General Trade Licence shall not at any time be used upon a vehicle which is being used for the conveyance of passengers for profit or reward.

(iii) No vehicle shall be used upon a public road under a General Trade Licence for any purpose other than a purpose for which such vehicle is authorised by this Acticle to be used under such licence.

(iv) Subject to the provisions of paragraphs (i) and (ii) of this Article a vehicle may be used upon a public road under a General Trade Licence for any purpose connected with the business as a manufacturer or repairer of or dealer in mechanically-propelled vehicles of the holder of such licence and so long as such vehicle is *bona fide* being used for such purpose the holder of the licence shall not by reason only that some other or further use is being made of the vehicle be deemed to commit a breach of these Regulations.

Article E.—It shall not be necessary for a vehicle upon which the plates issued under these Regulations and a General Trade Licence are being properly carried used and displayed to carry any other identification marks or licence in respect of the vehicle.

#### *Limited Trade Licences*

4. The following set of Regulations shall apply to Limited Trade Licences, that is to say —

Article A.—The provision of Articles A, B, C, D (except paragraphs (iii) and (iv) thereof) and E of the set of Regulations applicable to General Trade Licenees shall apply to Limited Trade Licences as if they were herein repeated with the substitution of the words "Limited Trade Licence" for the words "General Trade Licence" wherever they occur.

Article B.—(i) Subject to the observance and fulfilment of the provisos hereinafter contained the holder of a Limited Trade Licence may use any vehicle for which such licence is appropriate on a public road under that licence for any one or more of the following purposes:—

- (1) For test or trial in the ordinary course of construction or repair or immediately after completion in either such case.
- (2) For proceeding to or from a public weighbridge for ascertaining its unladen weight or to or from any place for its registration or inspection by a Council.
- (3) For test or trial for the benefit of a prospective purchaser; for proceeding at the instance of a prospective purchaser to any place for the purpose of such test or trial; or for returning after such test or trial.

- (4) For delivering the vehicle to the place where the purchaser intends to keep it.
- (5) For delivering a vehicle from his premises to the premises of another manufacturer or repairer of or dealer in mechanically-propelled vehicles or removing a vehicle from the premises of another manufacturer or repairer of or dealer in mechanically-propelled vehicles direct to his own premises.
- (6) For proceeding to or returning from a workshop in which a body is to be or has been fitted to the vehicle or the vehicle is to be or has been painted or repaired.
- (7) For towing a vehicle which, while being driven upon a public road, has become unable to proceed under its own power, from the place where it has broken down to a place for repair or storage.
- (8) For proceeding from the premises of a manufacturer, or repairer of or dealer in mechanically-propelled vehicles to a railway station or wharf for entraining or shipment or from a train or ship to the premises of such a manufacturer, repairer, or dealer.
- (9) For proceeding to or returning from any garage auction room or other place at which vehicles are usually stored or usually or periodically offered for sale and at which the vehicle is to be or has been stored or is to be or has been offered for sale as the case may be.

Provided that

- (a) Not more than two persons in addition to the driver shall be carried upon a vehicle which is being used upon a public road under a Limited Trade Licence, each such person being either an employee of the holder of the licence necessary for the purpose for which such vehicle is being used or a prospective purchaser for whom a test is being made or a person nominated by him, but no person in addition to the driver shall be carried in any vehicle which is being used upon a public road under a Limited Trade Licence on Sundays Bank Holidays Christmas Day Good Friday or other public holidays.
- (b) No vehicle which is being used upon a public road under a Limited Trade Licence shall carry or convey any goods or load whatsoever except such load as it may be necessary to carry for the purpose of testing the vehicle. Any such load shall consist solely of some ordinary form of ballast such as sand gravel scrap iron or the like and no purpose other than that of testing the vehicle shall be served by such conveyance. In particular no such vehicle shall be used for the conveyance of goods in the course of trade or for the delivery or removal of goods but any such load as aforesaid shall be brought back to its place of loading without, except in the case of accident, any part thereof having been removed from the vehicle and without such load having at any time since it was loaded on the vehicle been used or conveyed otherwise than as ballast for the purpose of testing the vehicle.
- (c) No vehicle shall be used upon a public road under a Limited Trade Licence unless the duplicate entries from the book

referred to in Article C hereof properly completed are carried along with such vehicle while so in use.

(ii) No vehicle shall be used upon a public road under a Limited Trade Licence for any purpose other than a purpose for which the vehicle is authorised by paragraph (i) of this Article to be used under such licence.

Article C.—(1) Upon the issue of a Limited Trade Licence the Council shall also supply to the person to whom such licence is issued a book in a form approved by the Minister of Transport in which the holder of such licence shall on each occasion and before such licence is used complete in duplicate the entries for which provision is therein made. One copy of such entries shall remain in the book and the other copy shall be carried with the vehicle during the whole of the journey to which such entries relate, and shall be produced at any time during such journey by the driver for inspection upon demand made by any Police or Local Taxation Officer.

(2) Such book shall be produced at all reasonable times for inspection by any Police or Local Taxation Officer and shall be kept available for inspection at the place specified in the Declaration made upon application for the Limited Trade Licence as the place at which the book will be kept.

(3) No person shall deface or mutilate any book issued under this Article or make any entry therein which is to his knowledge false or misleading or alter or obliterate any entry made therein or except as provided by these Regulations make any entry therein or addition thereto, or after its removal from such book make alter or obliterate any entry in any copy to be carried on the vehicle under paragraph (1) of this Article.

5. These Regulations shall have effect on and from the first day of January, 1923.

Given under the Seal of the Minister of Transport, this 14th day of December One thousand nine hundred and twenty-two.

(L. S.)

*H. H. Piggott,*  
Assistant Secretary.



## GENERAL INDEX

---

- ABETTING** driving offences, 80  
**Abode**, place of. *See* Place of abode  
**Abroad**, cars going, or coming from.  
*See* International Law  
     Visitors from. *See* Foreigners  
**Abusive language**, revocation of  
     licence of public vehicle for, 198  
**Access**  
     to highway. *See* Highway,  
         access to  
     premises. *See* Premises  
**Accident**,  
     driver must give number of car  
         after, 83  
     emission of smoke by loco-  
         motive due to, 9  
     failure to stop after, 83  
     inevitable, 59  
     knowledge of, burden of prov-  
         ing, is on prosecution, 83  
**Accidental cause**, emission of smoke  
     or vapour by motor car through, 17  
**Accumulators of locomotive**,  
     maximum weight of, jointly  
         with water and fuel, 11  
     weight of, not included in  
         maximum weight, 11  
     not included in weight  
         unladen, 3, 25, 46  
**Act of God**,  
     common carrier exempted from  
         liability by, 123  
**Action for nuisance**, 55, 58  
**Actions, limitation of.** *See* Limita-  
     tion of actions  
**Address**,  
     change of, effect of, as to  
         registration book, 41  
     procedure as to registra-  
         tion book on, 38  
     false, giving, to cab-driver to  
         avoid paying fare, 207  
     notification of change of, by  
         driver of hackney carriage.  
         *See* Hackney carriage  
     obligation of driver to give, 81  
     of driver, when owner must  
         furnish, 82  
     licensee to appear on general  
         licence card, 32  
     owner, when required to be  
         painted on vehicle, 8  
     of locomotive must be  
         affixed, 13  
     penalty for driver giving false,  
         81  
     refusal of, arrest for, 81  
**Adjournment**  
     for error in summons, 97  
     for non-appearance of inform-  
         ant, 98  
     recognisances to appear on, 97  
**Adoption of bridge by public.** *See*  
     Bridge  
**Advertisements**  
     in London stage carriages,  
         what are allowed, 213, 214,  
         216  
     London cabs must not carry,  
         208, 210  
     what permitted in stage car-  
         riages in London, 213, 214, 216  
**Age**  
     for obtaining driving licence, 18  
     for obtaining licence to drive  
         hackney carriage in Metro-  
         polis, 175  
     of engine, reduction of duty  
         on account of, 48  
**Agreement**,  
     as to fare of hackney carriage.  
         *See* Hackney carriage  
     written, of employment of  
         drivers and conductors of  
         public vehicles. *See* Hack-  
         ney carriage and Stage car-  
         riage

## INDEX

- Agricultural  
     engine, rate of duty on. *See* Excise duty  
     machine may be a trailer, 90  
     "purposes," what are, 44  
     tractor. *See* Tractor
- Agriculture, locomotives used "in connection with," 44
- Aiding and abetting driving offence, 80
- Aliens. *See* Foreigners
- Alteration,  
     fraudulent, of licence for vehicle, 35  
     of registration book, 41  
     of registration book, 37  
     of vehicle, additional duty after, 29  
     effect of, as to licensing and duties, 29, 36  
     as to registration book, 37  
     issue of new licence after, 29
- Ambulance, form of licence for, 28
- Amendment of order closing road to motor traffic, 166
- Amount of petroleum allowed to be stored. *See* Petroleum
- Animals,  
     liability for, in case of right of pasturage beside highway, 164  
     straying on highway, liability as to, 163
- Annoyance caused by repairing vehicles. *See* Repair
- Appeal  
     against disqualification to obtain driving licence, 22  
     notice closing bridge to heavy traffic, 167  
     refusal to license omnibus, 196, 225  
     refusal of or conditions attached to petroleum licence. *See* Petroleum  
     as to breaches of Statutory Orders, 99  
     disqualification for driving licence, 99  
     offences with Metropolitan stage carriages. *See* Stage carriage  
     by way of special case. *See* Special case
- Appeal—*cont.*  
     from refusal of Council to issue general licence, 32  
     none from Minister of Transport as to issue of general licence, 32
- Appeals to Quarter Sessions, 99  
     entry of, 101  
     notice of, binds appellant, 100  
         to whom to be given, 100  
     recognisance to prosecute, 101  
     respite of, 100  
     time for, 99  
         serving notice of, 99
- Appearance  
     of defendant, not necessary when legally represented, 74  
     informant at trial is essential, 98
- Application for licence. *See* sub Driving licence, etc.
- Apprehension. *See* Arrest
- Apprentice is not a male servant, 49
- Approval, special, of types of wheel for increased weight, 11
- Arbitration as to whether bridge is fit for use by heavy motor cars, 169
- Arrest  
     for absence of identification marks, 81  
     "bilking" cabdriver, 206  
     driving offences, 80  
     driving on footpath, 87  
     furious driving, 80  
     non-production of licence, 81  
     refusing name and address, 81  
     liability of drivers, to, 80  
     of driver. *See* Driver  
         unauthorised driver of hackney carriage. *See* Hackney carriage  
     power of, for breach of traffic regulations, 171  
         furious driving, 77  
     without warrant, for furious driving, 80
- Assault,  
     collision when driving furiously is not, 77  
     revocation of licence of public vehicle for, 198

# INDEX

Assistance for horses. *See* Horses  
 Associations, trials promoted by.  
*See* Trials  
 Attachment. *See* Power attachment  
 of lamps. *See* Lamps  
 Attendance  
 of witnesses. *See* Witnesses  
 on heavy locomotive. *See*  
 Heavy Locomotive  
 steam roller. *See* Steam  
 roller  
 trailers. *See* Trailers  
 Authority, Highway. *See* Highway  
 Automobile Association,  
 powers of, as to cars proceeding  
 abroad, 244  
 permits for foreign cars, 240  
 Auxiliary engine. *See* Power  
 attachment  
 Average expenses of repair. *See*  
 Extraordinary traffic  
 Axle,  
 rear, of locomotive, proportion  
 of weight that may be borne  
 by, 11  
 weight on. *See* Axle-weight  
 Axle-weight,  
 effect of, as to speed of heavy  
 motor car, 75  
 tyres, 4  
 maximum, of heavy motor car,  
 7  
 trailer drawn by  
 heavy motor  
 car, 15  
 meaning of, 6  
 method of calculating, 6  
 of motor-car, method of painting  
 on, 6  
 when painting on  
 necessary, 6  
 trailer, right of authorities  
 to test by weighing, 7  
 registered, mode of calculating,  
 4  
 right of authorities to test by  
 weighing, 7  
 units of, 4

## B.

Back fare. *See* Hackney carriage  
 Back light. *See* Lighting  
 Backing of warrants, 97

Bailments. *See* Hire, Loan, etc.  
 Bankruptcy,  
 effect of hire purchase agreements  
 in case of. *See* Hire-  
 purchase agreements  
 Bell. *See* Warning  
 Bias of Justices,  
 remedies in case of, 105  
 Bicycle, motor. *See* Motor cycle  
 Bills. *See* Advertisements  
 Bill of sale,  
 where hirer under hire-purchase  
 agreement can give. *See*  
 Hire-purchase agreements  
 Block,  
 trailer carrying single, weight  
 of, 91  
 Blocks,  
 wooden, on driving wheels of  
 locomotive, 13  
 Blowing-off,  
 by locomotive, forbidden on  
 highway, 92  
 Board of Trade,  
 appeal to, as to closing of  
 bridges, 167  
 Body,  
 conspicuous, may be a nuisance,  
 57  
 fitting of, use of general licence  
 on journey for, 32  
 weight of, how computed in  
 calculating weight  
 unladen, 25  
 included in weight  
 unladen, 46  
 Boiler,  
 surface of, as basis of horse-  
 power of steam-engine, 47  
 weight of,  
 included in maximum  
 weight, 11  
 included in weight unladen,  
 46  
 Book of fares. *See* Hackney car-  
 riage  
 Book, registration. *See* Registra-  
 tion book  
 Borough Councils,  
 authority of, as to weight and  
 width of locomotives, 10  
 clerk may act for, as to licences,  
 24  
 collection of Excise Duty by,  
 43

# INDEX

## Borough Councils—*cont.*

- issue of petroleum licences by.  
*See* Petroleum
- licensing of vehicles by, 25
- powers of, as to hackney and stage carriages.  
*See* Hackney carriage and Stage carriage
- to adopt Public Health Amendment Act, 1907, 76
- register of vehicles to be kept by, 38
- registration of vehicles by.  
*See* Registration of vehicles
- supply of identification plates by, 39
- when obliged to issue driving licences, 18

Borrower of vehicle. *See* Loan

Boulton wheels. *See* Wheels

Brake, when, is an "omnibus," 223

## Brakes,

- independent, meaning of, 5
- motor car requires two independent, 4
- must be in good working order, 4
- of Metropolitan stage carriages, 215
- motor car, 5
- steam vehicle, 5
- trailer, 14
- standard of efficiency of, 4
- when engine can be regarded as independent, 5

## Brakesman,

- when necessary on trailer, 14

Breakage of pipes. *See* Pipes

## Breakdown,

- noise when, being remedied, 8
- repair on highway after, not a nuisance, 56

## Breaking up

- of foreign car in U.K. *See* International law
- vehicle, effect of, as to
  - index - number and mark, 36
  - licence, 29
  - return of registration book on, 38, 41

## Bridge,

- appeal against notice prohibiting traffic on, 167

## Bridge—*cont.*

- arbitration to settle whether closing of, to heavy motor cars is justified, 169
- closing of,
  - by bye-law, procedure to, 168
  - to heavy locomotives, 167
  - to heavy motor cars, 169
- compelling those liable to repair to permit heavy motor cars to pass over, 169
- County Councils may purchase, take over, or erect, 143
- damage to, by locomotive, liability in case of, 167
- notice closing, to heavy motor cars, how justification for, can be tested, 169
- of insufficiency of, for heavy traffic, 167
- passing of locomotives on, forbidden, 167
- private, dedication of, to public, 142
- repair of, 142
- proof of adoption of, by public, 143
- repair of, standard of, 143
  - when damaged by locomotive, 168
  - who are liable for, 142
- restrictions on use of, by heavy locomotives, 167
- special authority to use, notwithstanding bye-law, 168
- suspension, heavy locomotives may not use, 167
- temporary strengthening of, before use, 168
- use of heavy motor cars on, 169
- powers of Minister of Transport as to, 170
- trailers on, 168, 169
- what is a, separate from the highway, 142
- when, included in term "road," 53
- widening of, 143

## Builder,

- liability of, for extraordinary traffic. *See* Extraordinary traffic

## Building contract,

- prolonged, position as to extraordinary traffic in case of. *See* Extraordinary traffic
- what is, 155

# INDEX

Building-owner,  
liability of, for extraordinary  
traffic. *See* Extraordinary  
traffic

Burden of proof  
is on owner, to show purpose  
for which vehicle used, 45  
of knowledge of accident on  
prosecution, 83  
*See also* Onus of proof

Bye-laws  
as to carriage of passengers.  
*See* Carriage of passengers  
as to use of locomotives in  
City of London, 10  
closing of bridge by. *See*  
Bridge  
for regulation of provincial  
hackney carriages, scope of,  
231, 232  
of Common Council, when  
London County Council  
must approve, 10  
of London County Council as  
to traffic, 171  
publication of, 233  
ratepayers may have copy of,  
free, 233  
tests of validity of, 232

## C.

Cab. *See* Hackney carriage  
when covered by enactments  
as to Metropolitan stage  
carriages, 188

Cab-driver. *See* Hackney carriage

Cable ploughing engines,  
maximum weight of, 11

Cable, weight of trailer carrying, 91

Calculation  
of axle-weight. *See* Axle-  
weight  
horse-power. *See* Horse-  
power

Cancellation of licence to drive  
hackney carriage. *See* Hackney  
carriage

Cans for petroleum. *See* Petroleum

Card, licence. *See* Licensing of  
vehicles

Care,  
absence of reasonable. *See*  
Negligence

Care—*cont.*

degree of, required of carriers  
of passengers. *See* Carriage  
of passengers  
duty of. *See sub* Repairs, etc.

Carriage of goods  
by common carrier, 123  
declaration of value of goods,  
123, 125  
duty of consignor to declare  
if goods are dangerous, 124  
how far common carrier bound  
to undertake, 123  
inherent vice of goods, 123  
insecure package of goods, 124  
liability for accident during, 123  
of carrier for servants'  
claims, 126  
carrier for servants'  
wrongs, 126  
common carrier, as  
to, 125  
mail contractor, as  
to, 124  
stage coach pro-  
prietor, as to, 125  
lien of common carrier, extent  
of, 127  
limitation of liability as to,  
by public notice, 125  
special contract or  
notice, 124, 126  
position of gold, silver, jewels  
and similar articles, 125  
position of proprietors of  
hackney and stage carriages  
as to, 123  
valuable goods of small bulk,  
position as to, 125  
warranty of suitability of  
vehicle for, 123  
what common carrier must  
carry, 124  
who is a common carrier, 123

Carriage of passengers,  
acceptance of risk by pas-  
senger, 128  
bye-laws, duty of passengers  
to obey, 129  
care required of those under-  
taking, 127  
carrier is not common carrier,  
127  
contributory negligence of  
passengers, position as to,  
129  
doctrine of identification of  
passenger with vehicle now  
obsolete, 129

## INDEX

- Carriage of passengers—*cont.*  
 duties of passengers during, 129  
 duty of passengers as to tickets, 129  
 liability as to infection during, 128  
     for defects in vehicle used for, 127  
     of carrier as to, 127  
     when passenger has unknown peculiarity, 128  
 limitation of liability as to, by notice or contract, 128  
 ticket, failure to produce, does not justify forcible removal of passenger, 129
- Carriages,  
 bicycles are, 87  
 danger to. *See* Danger
- Carrier, common. *See* Carriage of goods
- Cart,  
 name and address of owner must be painted on, 8  
 owner's name on, when required, 200  
 used as trailer. *See* Trailer  
 what motor vehicles must be regarded as, 8
- Case, stating a. *See* Special case
- Certificate,  
 medical, of fitness to drive hackney carriage. *See* Hackney carriage  
 of refusal of petroleum licence. *See* Petroleum  
     surveyor as to  
     extraordinary traffic. *See* Extraordinary traffic  
     excessive weight. *See* Excessive weight  
     weight of load of trailer, right to, 92  
     unladen. *See* Weight unladen
- Certiorari,  
 conviction for breach of petroleum regulations not removable by, 114  
 discretion as to, 105  
 removal of action for extraordinary traffic by, 157  
 uses of, 105  
 when obtainable, 105
- Chamber, expansion. *See* Silencer
- Change of address. *See* Address owner. *See* Owner
- Char-à-banc,  
 when, is an "omnibus," 223  
     covered by enactments as to Metropolitan stage carriages, 188
- Character of driver,  
 how far, is ground for refusing licence to drive hackney carriage. *See* Hackney carriage
- Chauffeur. *See* Driver
- Chief Constable,  
 notice of appeal to be given to, 100
- Children in hackney carriages. *See* Hackney carriage
- Cinders, locomotive must not drop, 10
- Circulation, international, of cars. *See* International law
- City of London,  
 bye-laws as to use of locomotives in, 10  
 cab-stands in. *See* Hackney carriage  
 licence to keep petroleum in. *See* Petroleum  
 regulation of traffic in, 171, 172  
 special regulations for stage carriages in, 212
- Class of vehicle to be entered on licence, 28
- Classification of roads suggested, 62
- Cleaning,  
 use of petroleum for, 117
- "Clear days," meaning of, 99
- Clerk  
 to Borough Council, delegation to, of duties as to licensing vehicles, 26  
 Council may act for Council as to licences, 24  
 County Council, delegation to, of duties as to licensing vehicles, 26  
 the Justices, notice of appeal to be given to, 100
- Closing  
 of bridges. *See* Bridges  
 road to motor traffic, notice before, 165  
 notice board to indicate, 166

# INDEX

## Closing—*cont.*

- of road to motor traffic—
  - order for, notice of, 165
  - penalty for breach of order, 166
  - powers and procedure for, 165
  - public enquiry before, 165

Clubs, trials organised by. *See* Trials

## Coachmaker,

- when carriage let by, is hackney carriage, 50

Code, desirability of, 2

Colour of vehicle to be entered on licence, 28

## Combination,

- is a motor cycle, 18
- licence for, how displayed, 29
- lights on. *See* Lighting
- rate of duty on. *See* Excise Duty

## Commissioner

- of City Police, notice of appeal to be given to, 100
- Metropolitan Police,
  - discretion of, as to licences to drive hackney carriages. *See* Hackney carriage
  - notice of appeal to be given to, 100
  - powers of, as to hackney carriages in Metropolitan. *See* Hackney carriage
  - regulation of traffic by, 170

## Commitment,

- Councils cannot recover excise duties by, 26

Committal of witnesses refusing evidence. *See* Witnesses.

## Common Council,

- bye-laws of, when London County Council must approve, 10
- of City of London. *See* City of London

## Common danger,

- driving to the. *See* Driving

## Company,

- application by, for licence for public carriage, 196
- service of summons on, 96

## Compensation

- for time lost in proceeding to weighbridge, 92
- to hackney carriage driver. *See* Hackney carriage
- to passenger for misconduct of cab-driver, 208

## Completion, date of,

- what is, on building contract, 155

Compromise of claim as to extraordinary traffic. *See* Extraordinary traffic.

Computation of horse-power. *See* Horse-power

Concealing number plate. *See* Hackney carriage and Stage carriage

## Conditions,

- express, limitation of liability of garage proprietor by, 108
- on consignment note. *See* Carriage of goods
- petroleum licences. *See* Petroleum

Conductor. *See* Stage carriage

Connivance in cases of offences with heavy locomotives, 93

Consignment note. *See* Carriage of goods

Consignor. *See* Carriage of goods

## Consolidated Fund,

- payments from, to Road Fund, 52

Conspicuous vehicles may be a nuisance, 57

Constable. *See* Police

## Construction,

- compliance with regulations
  - as to, does not authorise excessive weight, 148
  - is no defence to action for damage caused by sparks, 10
  - no defence in action for nuisance, 9
- exceptional, horse power in case of, 47
- method of, must not cause vehicle to be a nuisance, 9
- of lamp. *See* Lighting
- light locomotives, 2. *See also* Construction of motor cars

## INDEX

- Construction—*cont.*  
     of locomotive  
         driving wheels, 13  
         must prevent  
             dropping of cinders  
             or embers, 10  
             emission of sparks,  
             10  
     motor car,  
         maximum width, 3  
         when reversing gear  
             necessary, 3  
     roads. *See Roads*  
     trailer must not cause dan-  
         ger, 14  
         regulations as to, 14  
     provision by, for consumption  
         of smoke. *See Smoke*  
     regulations as to,  
         compliance with, no de-  
         fence in action for  
         nuisance, 58  
         mere breach of, does not  
         prove nuisance, 65  
     Statutory Orders relating to, 2  
     test after. *See Test*
- Consumption of smoke. *See Smoke*
- Container for petroleum. *See Petroleum*
- Contract,  
     building. *See Building con-  
         tract*  
     for hire purchase. *See Hire-  
         purchase agreements*  
     repair is personal, 109  
         where, is entire and  
         where divisible,  
         110  
     limitation of liability of carrier  
         of passengers by. *See Car-  
         riage of passengers*  
     prolonged. *See Extraordinary  
         traffic and Excessive weight*  
     special, as to carriage of goods.  
         *See Carriage of goods*
- Contributory negligence. *See Neg-  
     ligence*
- Control,  
     absence of sufficient, may  
         amount to nuisance, 57  
     of driver by owner. *See Driver  
         and Owner*
- Convention as to foreign cars. *See  
     International Law*
- Convictions,  
     contents of, 98
- Convictions—*cont.*  
     for exceeding speed-limit. *See  
         Speed*  
     offence against petroleum  
         regulations, not remov-  
         able to superior Court,  
         114  
     may be had for duplicity, 76  
     must be certain, 98  
     quashing of, 100  
         for improper trial, 105  
     stating a case as to, 101
- Copies of Register of Vehicles,  
     who may procure, 38
- Corporation of London,  
     regulation of traffic by, 171
- Corpse, infected,  
     may not be taken in public  
         vehicle, 209
- Correction of registration book,  
     after alteration of vehicle, 37
- Costs  
     in cases of extraordinary traffic.  
         *See Extraordinary traffic*  
     not counted with fine for appeal  
         purposes, 99  
     of testing petroleum. *See  
         Petroleum*  
     on special case, 104
- Counsel on hearing of special case,  
     104
- County Councils,  
     authority of, as to weight and  
         width of locomotives, 10  
     Clerk may act for, as to  
         licences, 24  
     collection of Excise Duty by,  
         43  
     indictment of, for non-repair  
         of highway. *See Highway*  
     jurisdiction of, as to extra-  
         ordinary traffic and excessive  
         weight, 157  
     licensing of vehicles by. *See  
         Licensing of vehicles*  
     powers of,  
         as to bridges. *See Bridge*  
         repair of highways in  
         default of local  
         Councils. *See High-  
         way*  
     to demand declaration of  
         employment of male ser-  
         vants, 49  
     register of vehicles to be kept  
         by, 38

## INDEX

### County Councils—*cont.*

- registration of vehicles by.  
*See* Registration of vehicles
- supply of identification plates  
 by, 39
- when obliged to issue driving  
 licences, 18

### Crime

- of driver of hackney carriage.  
*See* Hackney car-  
 riage
- liability of employer  
 for, 121
- servants. *See* Servants

### Crossbars on driving wheels of loco- motives, 13

### Crossing, level. *See* Level crossing

### Cross roads, rule of road as to, 62

### Crown,

- speed limit as to locomotives  
 does not bind, 74
- tyres of vehicles belonging to.  
*See* Tyres

### Crown Office,

- lodging of special case at, 104

### Customs

- officer, power of, to inspect  
 registration book, 37
- return of registration book to,  
 on export of vehicle, 38

### Cut-out, use of, forbidden, 4

### Cylinder, horse-power of. *See* Horse-power

### Cylinder-taps of locomotive may not be opened near a horse, 92

## D.

### Damage

- caused by
  - act of servant, responsi-  
 bility of owner of loco-  
 motive for, 14
  - locomotive, liability of  
 owner for, 13
  - spark. *See* Sparks
- to property. *See* Property
- vehicle, liability of hirer for.  
*See* Hire
- wanton, rule of road cannot  
 justify, 61

### Damages

- for breach of contract to re-  
 pair, 110
- nuisance, 55

### Damages—*cont.*

- measure of, in claims based on  
 extraordinary traffic. *See*  
 Extraordinary traffic

### Danger

- caused by repairs in street, 86
- condition of vehicle must not  
 be likely to cause, 8
- construction of trailer must not  
 cause, 14
- driving to the. *See* Driving
- notice of special, near petro-  
 leum store. *See* Petroleum
- on highway. *See* Highway
- public. *See* Driving
- restriction of mechanical trans-  
 port on ground of, 166

### Dangerous

- driving of provincial hackney  
 carriage, 230
- goods. *See* Carriage of goods
- speed. *See* Speed
- vehicle may be nuisance, 57, 64
- negligence by use of, 64

### Dazzling lights. *See* Lighting

### Dealers, issue of general licences to. *See* Licensing of vehicles

### Deception. *See* Fraud

### Declaration,

- false, or misleading. *See* Fraud
- of value of goods. *See* Car-  
 riage of goods
- on application for licence,  
 penalty for misleading or  
 false, 35

### Dedication of bridges to public. *See* Bridge

### Defacement,

- accidental, of registration  
 book, 38
- of driver's ticket. *See* Hackney  
 carriage
- Hackney carriage driver's  
 licence. *See* Hackney  
 carriage
- licence. *See sub* Driving  
 licence, etc.
- licence for hackney or stage  
 carriage. *See* Hackney  
 carriage and Stage car-  
 riage
- permit for foreign driver to  
 drive in U.K., 240
- registration book, 37, 41

# INDEX

## Defect

- in hackney carriage, liability for. *See* Hackney carriage vehicle, duty of lender to disclose, 122
- vehicle used for passengers, liability for. *See* Carriage of passengers
- latent. *See* Latent defects

## Defence

- in action for
  - damage caused by sparks, compliance with regulations as to construction is not, 10
  - nuisance, 58
- prosecution for
  - plates not being easily distinguishable, 42
  - non-registration of vehicle, 42
  - locomotive emitting smoke, 9
- to charge of
  - failing to record use of general licence, 34
  - obstruction, 85
  - offences with heavy locomotives, 93
  - indictment for nuisance, 58

## Defendant,

- identification of, personal appearance not compellable for, 98
- legally represented, need not appear personally, 74
- personal appearance of, at trial, 98
- trial in absence of, 96
- warrant to, to compel appearance, 98

## Definition,

- none of "motor cycle" in Motor Car Act, 1903...17
- of axle-weight, 6
- "clear days," 99
- common carrier, 123
- hackney carriage, 175, 224
- light locomotive, 16, 17
- local taxation officers, 26
- London, 214
- male servant, 48
- Metropolis, 170, 219
- "Metropolitan stage carriage," 187
- motor car, 16, 17
- omnibus, 223
- petroleum, 112
- petroleum spirit, 112

## Definition—*cont.*

- of "stage carriage," 188
- storehouse used for petroleum, 115
- taximeter, 203
- the left of the road, 60
- "the prescribed distance," 224
- urban districts, 219

## Delivery

- to purchaser, use of general licence on, 32
- or from manufacturer, use of general licence on, 32

## Design,

- exceptional, horse-power in cases of, 47

## Destination, showing, of stage carriage. *See* Stage carriage

## Destruction

- of hired vehicle. *See* Hire registration book, 38
- vehicle,
  - effect of, as to
    - index - number and mark, 36
    - licence, 29
  - registration book to be returned on, 38, 41

## Diameter of wheels. *See* Wheels

## Discretion

- of Commissioner of Police as to hackney carriage licences. *See* Hackney carriage magistrates as to endorsement of driving licence, 22
- warrants, 95

## Display

- of driver's ticket. *See* Hackney carriage
- identification marks, 39
- trade identification plates, 40

## Disqualifications for obtaining driving licence. *See* Driving licence

## Distance,

- hackney carriage hired by, unless expressly hired by time, 202
- limit of, which hackney carriage must go, 205

## Distress,

- councils cannot recover Excise Duties by, 26

## INDEX

### Distress—*cont.*

- for penalties for offences with hackney carriages. *See* Hackney carriage
- position of vehicle covered by hire-purchase agreement as to. *See* Hire-purchase agreement

### District Council,

- issue of petroleum licences by. *See* Petroleum
- power of, to adopt Public Health Amendment Act, 1907...76

### Divisible contracts,

- where contracts to repair are, 110

### Divisional Court,

- special cases argued before, 103

### Drain,

- petroleum must not escape into, 118

### Driver,

- arrest of, 80
  - duty of owner to facilitate, 82
  - for not producing licence, 81
  - for refusing name and address, 81
  - when permitted, 81
- compelling appearance of, at trial, 74
- control by, 88
- duties of, on highway, 59
  - to give name and address after accident, 83
  - prevent noise by stoppage of machinery, 8
  - proceed to weighing machine, 7
  - stop after accident, 83
  - machinery, 8
- evidence as to who was acting as, 71
- identification of, 73, 79, 80
  - owner must aid in, 82
- liability of, for offences with heavy locomotives, 93
- liability of lessor for, supplied by him, 120
- liability of, to arrest, 80
- licence of. *See* Driving licence
- licensing of foreign. *See* International law
- name and address of, when owner must furnish, 82

### Driver—*cont.*

- negligence of, owner's responsibility for, 63
- obligation of, to give name and address, 81
- of hackney carriage. *See* Hackney carriage
- heavy locomotive needs no driving licence, 24
- locomotive, duties of, 54
  - rights of, on highway, 54, 55
- motor car, duties of, 54
  - licensing of, 16
  - rights of, 54, 55
- stage carriage. *See* Stage carriage
- penalty for, giving false name and address, 81
- position of, 88
- requisition on owner for information as to, form of, 82
- rights of, on highway, 59
- unlicensed, to employ, is an offence, 23
- voluntary, when owner responsible for, 64
- voluntary. *See* Negligence
- want of skill of, may establish negligence, 65
- warranty of skill by, 122

### Driving,

- furious, 77
  - arrest for, 77, 80
  - collision during, not an assault, 77
  - evidence as to, 77
  - in Metropolis, 78
    - place of public resort, 78
    - "street," within meaning of Police Clauses Act, 1847...78
  - may lead to offence under Offences against the Person Act, 1861...77
- improper, 78, 80
  - arrest for, 80
  - evidence of, 78
  - is question of fact, 78
  - summons for, contents of, 80
- licence, age for obtaining, 18
  - application for,
    - an offence during disqualification, 22
  - details required on, 19

## INDEX

### Driving—*cont.*

licence, application for—*cont.*  
     fees on, 18  
     to whom to be made, 18  
     without disclosing endorsements, 23  
 arrest for non-production of, 81  
 confers no right to ply for hire, 19  
 disqualifications for obtaining, 18, 20  
     appeal against, 22, 99  
     in case of foreigner, 22  
     obstruction as a ground for, 86  
     offence to apply for or obtain licence during, 22  
     when Court may decree, 22  
     when decree of operates, 22  
 duplicate of, when obtainable, 19  
     must reproduce endorsements, 19  
 duration of, 18  
 endorsement of, 22  
     application for licence without disclosing, 23  
     for excessive speed, 72  
     for non-production, 20  
     held by foreigner, 21, 23  
     issuing authority to get copy of, 23  
     machinery for getting rid of, 23  
     now discretionary in all cases, 22  
     obstruction as a ground for, 21, 86  
 failure to produce, 20, 83  
 for motor cycle only, 18  
 for visiting foreigner, 243. *See also* International Law  
     orm of, 19

### Driving—*cont.*

licence, heavy locomotive, driver of, does not require, 24  
 loss of, 19  
     must always be carried, 20  
     necessity for owner to see that driver holds, 23  
     notice to produce, at trial, 73, 80  
     power of  
         Clerk to act for Councils as to, 24  
         police to demand production of, 20, 83  
     production of, forendorsement, 23  
         to police, 20, 83  
     qualifications of applicant for, 18  
     renewal of, 19  
         free from endorsements, 23  
         time for seeking, 19  
         who must grant, 20  
         without disclosing endorsements, 23  
     residence, what is, for purpose of, 18  
     scope of, 18  
     suspension of,  
         for dangerous speed, 21  
         for non-production, 20  
         held by foreigner, 21  
         obstruction as a ground for, 86  
         what offences justify, 20  
     to drive abroad. *See* International Law  
         who must issue, 18  
 negligent, essentials of summons for, 78  
     is question of fact, 78  
     what is, 78  
 obstruction is not an offence "in connection with," 86  
 offences as to, aiding and abetting, 80  
 on footpath, 87  
     arrest for, 87  
 reckless, is question of fact, 78  
     what is, 75, 78

# INDEX

## Driving—*cont.*

to common danger need not be  
furious, 77

what is, 76

danger, charge of, conviction  
for exceeding speed  
limit cannot be  
entered on, 97

conviction for, when,  
is bar to prosecu-  
tion for excessive  
speed, 79

is a question of fact,  
78

meaning of, as to, 79  
no actual danger to  
specified person  
need be proved, 78

speed and manner  
inter-dependent as  
to, 79

wheels. *See* Wheels

Drums for Petroleum. *See* Petro-  
leum

## Drunkenness

of driver or conductor of  
London stage carriage, pen-  
alty for, 217

licence for public vehicle re-  
vocable for, 198

penalty for, of cab-driver, 208

## Duplicate

of licence. *See sub* Driving  
licence, etc.

permit for foreign driver to  
drive in U.K., issue of,  
240

registration book, issue of, 38

## Duplicity,

information bad for, 95

*See* Summons and Conviction

Duration of licences. *See* Driving  
licence, etc.

## Duty,

excise. *See* Excise Duty

on foreign cars visiting Great  
Britain. *See* International  
Law

licence for vehicle after  
expiration of international  
permit, 243

## Dwelling,

petroleum storehouse may not  
be used as, 116

## Dynamo,

maximum weight of loco-  
motive carrying, 11

# E.

## Electric

motor, horse-power of, calcula-  
tion of, 47

vehicle a motor car, 17

Embers. Locomotive must not  
drop, 10

Emergency. *See* Rule of Road

## Emission

of smoke. *See* Smoke

sparks. *See* Sparks

vapour by motor car, 17

Employment, scope of. *See* Negli-  
gence and Servant

Endorsement of licence. *See sub*  
Driving licence, etc.

to drive hackney carriage.  
*See* Hackney carriage

## Engine,

age of, reduction of duty on  
account of, 48

when can be regarded as in-  
dependent brake, 5

Enquiry, public. *See* Public en-  
quiry

## Entire contracts,

when contracts to repair are,  
110

## Entraining,

use of general licence for  
purpose of, 32

Entrances to petroleum storehouses.  
*See* Petroleum

## Entry

of appeal. *See* Appeal

unauthorised, on hackney  
carriage driver's licence. *See*  
Hackney carriage

## Equipment,

compliance with regulations as  
to, is no defence in action  
for damage caused by sparks,  
10

nuisance, 9

loose, weight of, not included  
in weight unladen, 25, 46

of locomotive must include de-  
vice to prevent emission  
of sparks, 10

motor car, 2, 3

Statutory Orders relating to, 2

# INDEX

Erasure avoids licence for hackney or stage carriage, 198, 199

Estoppel of lessor under hire-purchase agreement from asserting his title. *See* Hire-purchase agreement

## Evidence

as to excessive weight. *See*  
Excessive weight  
who was driving a vehicle,  
71

committal for refusal of. *See*  
Witnesses

disclosing offence not charged,  
97

of adoption of bridge by public,  
143

bias of Justices, 106

damage

by excessive weight. *See*  
Excessive weight  
extraordinary traffic.  
*See* Extraordinary  
traffic

driving to the danger, 78, 79

exceeding speed limit. *See*

Speed

furious driving, 77

identification, 80

improper driving, 78

negligence. *See* Negligence

obstruction, 84, 86

Exceeding speed limit. *See* Speed

## Excessive weight,

action based on, is of nature of  
action for tort, 149

allowance for insufficient up-  
keep, in claim as to, 160

amount recoverable on claim  
based upon, 159

betterment to be allowed for  
on claim as to, 160

certificate of surveyor as to,  
146

not evidence of damage  
by, 146

compliance with regulations as  
to construction does not  
avoid liability for, 148

compromise of claim or pro-  
spective claim as to, 160

costs in cases relating to, 157

County Court jurisdiction as  
to, 157

damage to pipes under high-  
way by, 57

roads by reason  
of, 143

## Excessive weight—*cont.*

distinction of, from extra-  
ordinary traffic, 147

effect of non-repair of highway  
as to claim based upon, 149

enactments as to, 144

evidence to establish liability  
for, 154

holding of licence does not  
excuse, 148

inspection of documents on  
claim as to, 158

is a question of fact, 147

joinder of parties in action  
based on, 154, 157, 158

jurisdiction as to claim based  
upon, 156

limitation of actions as to, 154

must be judged as to each  
particular road, 148

nuisance by, 55

particulars obtainable as to  
claim based upon,  
158

to be given by  
joint-defendants  
as to, 158

position as to,

in case of prolonged con-  
tract, 154

Metropolis, 144

South Wales, 144

proof of extraordinary expenses  
caused by, 147

Public Authorities Protection  
Act, 1893, operation of as to,  
156

removal of action based on,  
by *certiorari*, 157

repair a condition precedent to  
action for damage by, 147

standard for ascertaining, 148

weather conditions relevant on  
claim as to, 159

what is, 147

what is valid, surveyor's certi-  
ficate as to, 146

who is responsible for, 153  
may give surveyor's cer-  
tificate as to, 146

Exchequer Account, transfer to,  
from Motor Tax Account, 51

## Excise

duty, amount of,

on general licences,  
31

quarterly general  
licence, 31

to appear on general  
licence card, 32

# INDEX

## Excise—*cont.*

- duty, amount of,—*cont.*
  - to be entered on licence of vehicle, 28
  - application of, 51
  - basis of, 44
  - by whom collected, 25
  - collection of, by councils, 43
  - councils cannot recover, by distress or commitment, 26
  - effect of alteration as to. *See* Alteration
  - horse-power as basis of, 44
  - method of recording on licence of vehicle, 28
  - powers of
    - councils to restore forfeitures in connection with, 26
    - officers of Council dealing with, 26
  - rate of, on
    - cycle, tricycle, or invalid carriage when hackney carriage, 45
    - hackney carriages. *See* Hackney carriage
    - male servants, 43, 48
    - stage carriages. *See* Stage carriage
  - refund of
    - after total non-user, 30
    - on account of age of engine, 48
  - remission or mitigation of penalties as to, by councils, 26
  - scale of, 44
  - vehicles exempted from, 43, 44
  - weight as basis of, 44
    - unladen, when basis of, 46
- licences are additional to other necessary licences, 25
- officer, power of, to inspect registration book, 37
- penalty for misuse of general licence, 34
  - use of licensed vehicle for unauthorised purpose, 35, 46

## Excise—*cont.*

- penalty for using unlicensed vehicle, 34, 43
- proceedings to recover, time for, 34
- when hackney carriage loaded beyond authorised capacity, 50
- Excuse for refusing to be hired. *See* Hackney carriage
- Execution,
  - effect of hire-purchase agreements as to. *See* Hire-purchase agreement
  - interpleader proceedings on, 133
  - procedure under hire-purchase agreements in case of. *See* Hire-purchase agreement
- Exemption from Excise duty. *See* Excise duty
- Exhaust gases. *See* Silencer
- Expansion chamber. *See* Silencer
- Expenses, extraordinary. *See* Extraordinary traffic
- Expired licences. *See sub* Driving licence, etc.
- Expiry of licence. *See sub* Driving licence, etc.
- Explosion, precautions against, of petroleum. *See* Petroleum
- Export,
  - permanent, effect of, as to
    - index - number and mark, 36
    - licence, 29
    - return of registration book on, 38, 41
  - temporary, of cars. *See* International law
- Extract of laws.
  - licensed hackney carriage driver in Metropolis to be provided with, 176
- Extraordinary expenses. *See* Extraordinary traffic
- Extraordinary traffic
  - allowance for insufficient upkeep in claim as to, 160
  - alternative routes not material as to, 151
  - amount recoverable on claim based upon, 159

## INDEX

### Extraordinary traffic—*cont.*

betterment to be allowed for on claim as to, 160  
 "by or in consequence of whose order" conducted, 153  
 carriage of passengers may be, 150  
 certificate of surveyor as to, 146  
     not evidence of damage by, 146  
 compromise of claim or prospective claim as to, 160  
 costs in cases relating to, 157  
 County Court, jurisdiction as to, 157  
 distinction between  
     nuisance and, 143  
     excessive weight and, 147  
 effect of local developments as to, 151  
     non-repair of road as to, 152  
 enactments as to, 144  
 evidence to establish liability for, 154  
 inspection of documents on claim as to, 158  
 is lawful, 143  
 joinder of parties in claim based on, 154, 157  
     of third party in claim as to, 158  
 jurisdiction in claims based on, 156  
 liability of third party no defence to claim based on, 153  
 limitation of action as to, 154  
 local industry does not excuse, 151  
 must be judged as to each particular road, 150  
 operation of Public Authorities Protection Act, as to, 156  
 particulars obtainable as to claim based on, 158  
     to be given by joint-defendants as to, 158  
 position as to,  
     in case of prolonged contract, 154  
     Metropolis, 144  
     South Wales, 144  
 proof of extraordinary expenses caused by, 147  
 removal of action based on, by *certiorari*, 157

### Extraordinary traffic—*cont.*

repair a condition precedent to action for damage by, 147  
     must precede surveyor's certificate, 147  
 time for judging whether traffic is, 152  
 weather conditions relevant on claim as to, 159  
 what constitutes, 149  
     is a question of fact, 150  
     variable, 151  
 who is responsible for, 153  
     may give surveyor's certificate as to, 146  
 Extras, in case of hackney carriage.  
     *See Hackney carriage and Taximeter*  
 "Extreme places." *See Stage carriage*

## F.

### False

declaration. *See Fraud*  
 particulars. *See Fraud*

### Falsifying accounts,

tampering with taximeter is, 185

### Fares

for hackney and stage carriages. *See Hackney carriage and Stage carriage*  
 plate showing, must be fixed in Metropolitan hackney carriage, 197

### Fee

for issue of petroleum licence, 113  
 licence to drive Metropolitan hackney carriage, 177  
 licence. *See Licence fees*

### Feet, moveable, on driving wheels of locomotives, 13

### Fence, liability of highway authorities as to, 161

### Ferry, when included in term "road," 53

### Fine,

appeal as to, 99  
 costs not counted with, for appeal purposes, 99

### Fire,

liability of garage proprietor in case of, 108

# INDEX

- Fire—*cont.*  
 London cab must carry means to extinguish, 210  
 precautions against, in case of petroleum. *See* Petroleum
- Fire-appliances,  
 exemption of, from Excise Duty, 44
- Fire-brigade,  
 vehicles used by,  
 exempt from duty, 43  
 form of licence for, 28
- Fire-engine,  
 form of licence for, 28  
 licence for. *See* Licensing of vehicles  
 no excise duty payable on, 43
- Fitters, carriage of, beside driver of London stage carriage, 217
- Fittings of trailer, regulations as to, 14
- Fixing of identification plates, 39
- Fleet of hackney carriages. *See* Hackney carriage vehicles, licence for. *See* Licensing of vehicles
- Foot passenger,  
 accident to, duty to stop after, 83  
 rights of, on highway, 59
- Footpaths,  
 driving on. *See* Driving when, included in term "road," 53
- Forfeitures,  
 application of, 51  
 of petroleum for breach of regulations, 113  
 restoration of powers of Councils as to, in excise matters, 26
- Foreign country,  
 cars going to or coming from. *See* International law
- Foreigner,  
 driving licence,  
 disqualification of, to obtain, 22  
 held by, power to endorse, 21, 23  
 obtaining of driving licences by, 19
- Forgery  
 of driver's licence or ticket. *See* Hackney carriage
- Forgery—*cont.*  
 to licence for vehicle, 35  
 permit for foreign driver to drive in U.K., 240  
 recommendation for licence to drive hackney carriage, 178  
 registration book, 41
- Form  
 of application for renewal of vehicle licence, 31  
 hire-purchase agreements. *See* Hire-purchase agreement  
 licence. *See sub* Driving licence, etc.  
 to drive hackney carriage, 178  
 special case. *See* Special case
- Fractions of horse-power. *See* Horse-power
- Fraud,  
 as to non-payment of cab fares, 206  
 registration, 40, 41  
 statement of weight of locomotive, 13  
 in affixing wrong tare to trailer, 91  
 altering licence for vehicle, 35  
 penalty for, on application for licence for vehicle, 35
- Frightening horses. *See* Horses
- Front lights. *See* Lighting
- Fuel of locomotive,  
 maximum weight of, jointly with water and accumulators, 11  
 weight of, not included in weight unladen, 3, 25, 46
- Furious driving. *See* Driving of hackney carriage. *See* Hackney carriage  
 London stage carriage, penalty for, 217  
 revocation of licence for public vehicle for, 198
- G.
- Garage  
 breach of contract to provide, 108  
 fire at, liability of proprietor in case of, 108

## INDEX

### Garage—*cont.*

- proprietor of, has no lien, 109
  - duties of, 107
  - liability of, express limitation of, 108
- theft at, liability of proprietor for, 108
- using other, than contracted for, 109
- vehicles standing outside, may be a nuisance, 56
- warranty of suitability of, 107

Gases, exhaust, escape of. *See* Silencer

Gear, reversing. *See* Reversing gear

General licences. *See* Licensing of vehicles

General Post Office, standing or plying for hire opposite, forbidden, 201

Giving way. *See* Rule of Road

Gold, carriage of. *See* Carriage of goods

Goods,
 

- carriage of. *See* Carriage of goods
- rate of duty on vehicles used for. *See* Excise duty
- hackney carriage temporarily used to convey, 50, 51
- vehicles only used partly for carriage of, not wagons or carts, 8

Gratuitous loan of vehicle. *See* Loan

Grease, regulations as to dropping of, for London cabs, 210

Grounds of appeal. *See* Appeal

Groyne, repair of, may be necessary to maintain highway, 136

Guests. *See* Inn-keeper

## H.

Hackney carriage,
 

- defects in, liability for injury caused by, 186
- definition of, 175, 224
- for duty purposes, 50
- duty on. *See* Excise duty
- rebate of, in case of fleet, 50

### Hackney carriage—*cont.*

- licensing of, 50
  - Excise licences do not supplant, 25
- luggage on. *See* Luggage
- Metropolitan. *See below*
- outside Metropolitan. *See below*
- penalties for offences as to, application of, 187
- plying for hire with. *See* Plying for hire
- proprietor of,
  - is not a common carrier of passengers' luggage, 123
  - liability of, to driver injured through defective vehicle, 186
- registration plate indicating that vehicle is, 50
- seating capacity, penalty for exceeding authorised, 50
- stage carriage is not, 234
- taximeter on. *See* Taximeter
- use of as trade vehicle, 51
  - to convey goods, 50, 51
  - what is, 50

Hackney carriage in Metropolitan,
 

- address of owner of, notification of change of, 198
- advertisements in. *See* Advertisements
- agreements as to payment for hiring, 204
- arrest of unauthorised driver of, 187
- back fare for, not claimable, 205
- bilking in case of, 206
- change of address, driver of, must notify, 178
- children in, how counted, 206
- Commissioner of Police, discretion of, as to renewal of licence to driver, 182
- compensation to
  - driver by owner of, when recoverable, 180, 183
  - proprietor for damage caused by driver to, 183
  - passenger in, for misconduct of driver, 208
- delay on journey forbidden with, 210
- discretion of Commissioner of Police as to issue of licence for, 177
- disinfection of, when required, 209

# INDEX

## Hackney carriage in Metropolis— *cont.*

driver of,  
 compensation to, for unfounded complaint, 180  
 criminal liability of, 185  
 driving without licence to drive, penalty for, 176  
 drunkenness, penalty for, 208  
 entitled to official extract of laws, 176  
 examination of, as to knowledge and proficiency, 178  
 insulting language of, penalty for, 208  
 misbehaviour by, penalty for, 208  
 must carry and produce book of fares, 205  
 negligence of, penalty for, 208  
 not using licence to drive, effect of, 177  
 photograph required for identification of, 178  
 production of, by owner, 186  
 relations of, with proprietor and public, 184  
 driver's licence,  
     defacement of, 176  
         by improper entry by proprietor, 176  
     is property of driver, 176  
     ticket, what to be shown upon, 176  
 examination of, before licensing, 196  
 excessive fare for,  
     claiming or taking, an offence, 204  
     recovery of, 204  
 fares chargeable by, 203  
     demanding excessive, penalty for, 204  
     driver must carry and produce book of, 205  
     refusal to pay, 206  
 fare plate in, 197  
 furious driving of, penalty for, 208  
 grease must not be dropped by, 210  
 hire of, by time must be expressed, 202

## Hackney carriage in Metropolis— *cont.*

hire of, by time, obligations in case of, 202  
     *prima facie* by distance, 202  
     when unable to pay fare of, 207  
 horn of approved pattern required on, 210  
 how far, can be required to go, 205  
 imprisonment in default of payment of penalty, as to, 184  
 infected corpse may not be taken in, 209  
     persons may not travel in, 209  
 inspection of fitness of, powers to demand, 209  
 liability of, to be hired, 202  
 licence for,  
     age for obtaining, 195  
     application for, 194  
     conditions of, 198  
     defacement of, 198, 199  
     discretion of Commissioner as to, 195  
     erasure on, 198, 199  
     fee for, 195  
     form of, 195, 197  
     method of application for, 196  
     power to grant, 191  
     revocation or suspension of, 195  
         grounds for, 198  
     surrender up of, 198  
     suspension of, grounds for, 198  
     transfer of, 197  
 licence to drive,  
     age limit as to, 175  
     applicant for renewal of, may be required to attend personally, 182  
     application for, 177  
     cancellation or suspension of, for withdrawing vehicle from use without leave, 208  
     Commissioner's power to recall, 199  
     conditions of, 177  
     contents of, 176  
     cost of, 177  
     delivery up of, when required, 182  
     duration of, 178, 195

# INDEX

## Hackney carriage in Metropolis— *cont.*

licence to drive—*cont.*  
     endorsement of, 178, 181  
     entries upon, by proprietor  
         180  
     fee for, 177  
     forgery of, 182  
     form of, 178  
     in Metropolis, 174  
     is limited to vehicles of  
         specified class, 178  
         strictly personal, 182  
     offences as to, 182  
     penalty for obtaining im-  
         properly, 178  
     production of, 178, 182  
     proprietor must hold em-  
         ployee's, 179  
     provisions as to, in  
         Metropolis, 175  
     renewal of, 182  
     retention of, by proprietor  
         having complaint, 180  
     return of,  
         by proprietor to  
             driver leaving his  
             employ, 179  
         to Commissioner when  
             required, 179  
         when expired, 199  
     revocation of, 177  
         grounds for, 179  
     suspension of, 177  
         grounds for, 179  
     transfer of, 182  
     when required, 174  
 licences required for, 174  
 lights on, regulations as to, 210  
 loitering with, penalty for, 210  
 lost property in. *See* Lost  
 property  
 "matter of complaint"  
     between owner and driver  
         of, 176, 180, 183  
     compelling witnesses to  
         attend as to, 184  
 means of communication be-  
     tween passenger and  
     driver required on,  
         178, 200, 210  
     to extinguish fire must  
         be carried on, 210  
 number of passengers to be  
     carried by, 206  
 plates for, 197  
     concealment of, is  
         an offence even  
         when vehicle used  
         privately, 194

## Hackney carriage in Metropolis— *cont.*

number plates for—*cont.*  
     offences as to, 194, 197, 198  
     removal of, when licence  
         expires, 199  
 obstruction by, penalty for, 210  
 overloading of, penalty for, 206  
 owner of, duty of, to produce  
     driver, 186  
     liability of,  
         for act of driver,  
             184  
         to public for acts  
             of driver, 185  
 passengers, number of, autho-  
     rised, must be displayed on,  
         228  
 penalties for offences with,  
     how recoverable, 187  
     may be made payable by  
         instalments, 184  
     mitigation of, 186  
 permitting unauthorised person  
     to drive, 185, 187  
 plying with unlicensed, 191  
 position when unauthorised  
     driver drives in an emer-  
     gency or otherwise, 185  
 power to regulate use of, 199  
 prescribed conditions of fitness  
     for, 195  
 proprietor of  
     must make no unautho-  
         rised entry on driver's  
         licence, 176  
     who is, is question of fact,  
         185  
 refusal of hiring, penalties for,  
     203  
 relations between owners and  
     drivers of, 183  
 Secretary of State to prescribe  
     condition of licences to drive,  
         177  
 seizure of, when driven by  
     unauthorised driver, 187  
 servant, for what purposes  
     driver of, is regarded as, 184,  
         185  
 skidding of, regulations as to,  
     210  
 speed of, regulations as to  
     limiting, mechanically, 210  
 standing with unlicensed, 191  
 stands for, regulations as to,  
     201  
     in City of London, 201  
 stopping with, at bottom of  
     street forbidden, 210

## INDEX

### Hackney carriage in Metropolis— *cont.*

- summons to determine complaint between owner and driver of, 180
- ticket for driver of,
  - defacement of, 181
  - delivery up of, 181
  - display and production of, 181
  - forgery of, 181
  - issue of, 180
  - loss of, 181
  - offences as to, 181
  - surrender of, 182
  - when, must be worn, 180
- unauthorised driver of, penalty for refusing name of, 187
- ventilation of, 208
- waiting with, charge for, 205
- what excuses refusal to be hired, 202
- windows of, regulations as to, 210
- withdrawal of, forbidden without leave, 208
- written contract necessary for employment of driver of, 183

### Hackney carriage outside the Metropolis

- Borough Councils, powers of, as to, 219
- compensation
  - for damage caused by, 230
  - to person injured by, awarded summarily, 186
- dangerous driving of, 230
- disinfection of, 231
- driver of,
  - compensation to, for unproved complaints, 233
  - drunkenness of, 230
  - permitting unauthorised, to drive, penalty for, 229
  - production of, by proprietor, 222
  - punishment of, for non-attendance before Justices, 186
  - who may license, 219, 220
- driving without licence, penalty for, 221
- fares, agreements as to, when, are enforceable, 229
- penalty for demanding excessive, 229
- recovery of excessive, 229
  - unpaid, 229
- impounding of, 230

### Hackney carriage outside the Metropolis—*cont.*

- infected persons, carriage of, in, 231
- leaving unattended, penalty for, 230
- licence for,
  - application for, 225
  - discretion as to grant of, 220, 225
  - duration of, 226
  - form of, 226
  - penalty for giving false information on application for, 226
  - revocation or suspension of, 227
  - to be registered, 226
- licence to drive,
  - application for, 220
  - authority must keep list of, 221
  - duration of, 221
  - endorsement of, 222
  - fee for, 221
  - offences as to, 227
  - proprietor must make no entry upon, 222
  - proprietor must retain, 222
  - requirements as to, 218
  - revocation of, 221
  - suspension of, 221
  - who may issue, 219
- licensing of,
  - provisions as to, 223
  - requirements as to, 224
- matters of complaint between driver and proprietor of, procedure for settling, 222
- number to be displayed on, 227, 228
- obligation upon, to carry passenger, 228
- obstruction by, penalty for, 230
- passengers,
  - carrying unauthorised, penalty for, 229
  - obligation to carry in, 228
- penalties relating to offences with, recovery of, 233
- proprietor of,
  - liability of, if driven without licence, 221
  - must notify change of address, 227
- regulation of, by bye-laws, 227, 231, 232
  - sources of, 227
- Urban Councils, powers of, as to, 219, 220

## INDEX

Hackney carriage outside the Metropolis—*cont.*  
 using unlicensed, penalty for, 227, 228  
 waiting, power to charge for, 229

Headlights. *See* Lighting

Hearing of special case, 104

Heating surface of boiler, as basis of horse-power, 47

Heavy locomotive,  
 assistance for horses passing, 59, 90  
 attendance required with, 89  
 construction of. *See* Construction  
 cylinder-taps of, opening of, near horse forbidden, 92  
 driver of, needs no driving licence, 24  
 equipment of. *See* Equipment  
 licence for. *See* Licensing of vehicles  
 must not be a nuisance, 9  
     pass another on any bridge, 167  
 obstruction by, 92  
 offences with,  
     connivance in case of, 93  
     defence to charges of, 93  
     information to bring real offender before Court as to, 93  
     liability for, 93  
 on bridges. *See* Bridge  
 rules as to, passing traffic, 92  
 signal to, to stop for horses, 93  
 size of. *See* Size  
 stopping of, for horses, 93  
 use of trailers with. *See* Trailers  
 weight of. *See* Weight  
 what is, 24  
 whistle of, must not be used, 92

Heavy motor car  
 axle-weight of. *See* Axle-weight  
 licence for. *See* Licensing of vehicles  
 lights on. *See* Lighting  
 meaning of, 3  
 on bridges. *See* Bridge  
 registration of. *See* Registration of vehicles  
 silencer of. *See* Silencer  
 speed of. *See* Speed  
 springs of. *See* Springs  
 taxation of. *See* Taxation

Heavy motor car—*cont.*  
 trailer drawn by, maximum axle-weight of, 15  
 tyres of. *See* Tyres  
 weight of, statement of. *See* Weight

Hedges  
 ornamental, protection of, against compulsory cutting, 162  
 right to cut, where highway prejudiced, 162

High Court, control of justices by, 105

Highway  
 access to, unreasonable use of, a nuisance, 56  
 animals straying on, liability for, 163  
 authority  
     advances to, for roads, 53  
     duty of, as to repair of highway, 135  
     enforcement of, 137  
     liability of, for negligence, limits of, 161  
     neglect of, to provide for ordinary traffic, effect of, 58  
     negligence of, when defence in action for nuisance, 58  
     protection of, by Public Authorities Protection Act, 1893...162  
 blowing-off by locomotive forbidden on, 92  
 closing of, to motor traffic. *See* Closing road  
 cutting hedges or trees which prejudice, 162  
 damage to, excessive weight. *See* Excessive weight  
 damage to, by extraordinary traffic. *See* Extraordinary traffic  
 dangerous condition of, liability of authority for injury caused by, 160  
 duty of authority to keep, fit for ordinary traffic, 135  
     users of, 59  
 excessive weight damaging. *See* Excessive weight  
 failure to repair, effect of, as to claim based on excessive weight, 149

## INDEX

### Highway—*cont.*

- keeping to left of. *See* Rule of road
- liability for animals in case of right of pasturage beside, 164
- locomotives on, 54
  - used for ploughing near, 59
- motor car on, 54
- negligence in use of. *See* Negligence
- obstruction of. *See* Obstruction
  - by trees or hedges, remedy for, 162, 163
- obstruction on, duty to remove, 136
- pipes under. *See* Pipes
- "passing over any common, waste, or unenclosed ground," meaning of, 164
- regulations restricting mechanical transport on, 166
- repair of, 134
  - enforcement of duty as to, 137
  - fine for neglect of, 138
  - includes maintenance of safeguards, 135
  - indictment to enforce, 138
  - limit of justifiable expenditure upon, 136
  - mandatory injunction as to, 140
  - parochial liability as to, 139
  - powers of
    - county council when local councils in default as to, 140
    - justices as to, 138, 139, 140
  - standard of, 58, 135
  - summary proceedings to enforce, 138
  - urban sanitary authority not liable for, 141
  - who are indictable for default as to, 141, 142
- rights of foot passengers on, 59
  - users of, 59
- snow on, duty to remove, 136
- standard of repair of, 58, 135
- subsidence of, 136
- suggested classification of, 62
- traffic on, danger to. *See* Danger
- unreasonable user of, a nuisance, 55
- use of safety-valve on, forbidden, 92
- use on, of vehicles likely to frighten horses, 56

### Highway—*cont.*

- what is a bridge separate from, 142
- what is a main road, 139
- what is ordinary traffic on, 135
- what roads put on same footing as for licence purposes, 16
- whistling by locomotives on, forbidden, 92
- Hire-purchase agreement,
  - bill of sale on vehicle covered by, 131
  - effect of, as to distress, 130, 133
    - execution, 130
    - in case of bankruptcy, 130, 133
  - estoppel of lessor under, from asserting his title, 132
  - form of, 130
  - hirer under, should covenant not to part with possession, 131
  - incidents of, 130
  - larceny of vehicle covered by, 132
  - lien on vehicle covered by, 130
  - option to purchase under, is a transmissible right, 131
  - pledge of vehicles covered by, 130
  - procedure under, in case of execution, 132
  - sale of vehicle subject to, 130
    - covered by, in market overt, 131
  - should only give option to purchase, 131
  - when hirer is "true owner" under, 131
- Hiring
  - of hackney carriages. *See* Hackney carriage
  - vehicles, 119
    - damage to vehicle during liability for, 121
    - destruction of vehicle during, liability for, 120
    - duties of lessor, 120
    - liability
      - of hirer for repairs during, 120
      - lessor for defects in vehicle let, 120
    - negligence of hirer during, lessor must prove, 120
    - obligation of hirer, 119
    - use of vehicle during, for unauthorised purpose, 120

## INDEX

- Hiring—*cont.*  
     of vehicles—*cont.*  
         when carriage let for, by coachmaster or jobmaster is hackney carriage, 50
- Holder for vehicle licence, form of, 28
- Holding to left. *See* Rule of road
- Horn. *See* Warning  
     London cab must carry, of approved pattern, 210  
     on Metropolitan stage carriages, regulations as to, 216
- Horse  
     accident to, duty to stop after, 83  
     assistance of, to pass locomotives, 59, 90  
     cylinder-taps of locomotive may not be opened near, 92  
     danger to. *See* Danger  
     degree of courage expected in, 57  
     led, rule of road as to passing, 62  
     locomotive must stop for, 93  
     straying on highway, liability for, 163  
     vehicles likely to frighten, a nuisance, 56
- Horse power  
     as basis of duty, 44  
     computation of, 47  
     fractions of, 47  
     in cases of exceptional design or construction, 47  
     of electric motor, 47  
     steam engine, 47  
     to be entered on licence of vehicle, 28
- Hotel proprietor. *See* Innkeeper
- I.
- Identification  
     defendant need not appear for, 98  
     driver not compelled to appear for, 74  
     mark on foreign vehicles in U.K. *See* International law  
         trailers, 38  
     of driver, 73  
     passenger with vehicle. *See* Carriage of passengers
- Identification—*cont.*  
     plates, 38  
         attachment of general licence to, 36  
         councils may supply, 39  
         display of, 39  
         fixing of, 39  
         general licence, issue of, with, 40  
         lettering on, 39  
         lighting of. *See* Lighting  
             on London cabs, 210  
         motor cycle, position of, on, 39  
         number of, to appear on general licence card, 32  
         numbering on, 39  
         offences as to, 40  
         on locomotive, lighting of, 68  
         on trailer, position of, 39  
         position of, 39  
         powers of Minister of Transport as to, 39  
         size and shape of, 39  
         supply of, by Councils, 39  
         trade, 40  
             form of, 40  
             how displayed, 40  
             licence card to be attached to, 40  
             remain property of Council, 40  
             return of, 40  
             what must appear on, 38, 39
- Illumination. *See* Lighting
- Import, temporary, of foreign cars. *See* International law
- Imprisonment  
     for default in paying penalty relating to offence with hackney carriage. *See* Hackney carriage  
     forgery or fraudulent alteration of licence, 35  
     forgery of registration book, 41  
     fraud as to registration book, 41
- Improvement Commissioners. *See* Urban Councils
- Independent brakes. *See* Brakes
- Independent contractor,  
     effect of employment of, as to Public Authorities Protection Act, 1893. *See* Extraordinary traffic

# INDEX

- Index-mark. *See* Registration of vehicles  
 for car after expiration of international permit, 243  
 foreign vehicles. *See* International law  
 to be entered on licence for vehicle, 28  
 what shall be, 36
- Indictment for nuisance, 55, 58
- Inevitable accident, 59
- Infected persons, carriage<sup>a</sup> of, in public vehicles. *See* Hackney carriage and Stage carriage
- Infection,  
 liability of carrier of passengers as to, 128
- Informant,  
 non-appearance of, at trial, 98
- Information,  
 contents of, 95  
 duplicity in, fatal, 95  
 for bringing real offender before the Court in cases of offences with heavy locomotives, 93  
 issue of, 95  
 joinder of parties in, 95  
 statement of time of offence in, 95  
 valid objections to, 95  
 what proceedings begun by, 95
- Inherent vice in goods. *See* Carriage of goods
- Injunction,  
 mandatory, as to repair of highway, 140  
 to restrain nuisance, 55, 58  
     traffic injuring pipes, 58
- Injury  
 by dangerous vehicle. *See* Dangerous vehicle  
 to pipes. *See* Pipes
- Innkeeper,  
 liability of, for guests' vehicles, 108  
     when, is removed by negligence of guest, 108  
 lien of, on guests' vehicles, 109
- Inspection  
 of documents as to extraordinary traffic. *See* Extraordinary traffic  
 petroleum stores. *See* Petroleum
- Inspection—*cont.*  
 of registration book. *See* registration book  
 vehicle before issue of registration book, 37
- Instalments  
 penalties as to hackney carriage offences payable by. *See* Hackney carriage
- Insulting language. *See* Abusive language
- Insurer  
 how far carrier is. *See* Carriage of goods, etc.  
 hirer is an. *See* Hire
- Intended prosecution, notice of. *See* Prosecution
- International law, 237  
 construction, requirements as to, of vehicle for use abroad, 238  
 destruction of foreign car in Great Britain, position in case of, 241  
 drivers, examination of qualifications of, to drive abroad, 239  
     licensing of foreign, to drive in Great Britain, 239  
 duties on foreign cars visiting Great Britain, 239  
 examination of car as to fitness for foreign use, 238  
 identification mark on foreign car in United Kingdom, display of, 242  
 index mark for foreign vehicles in Great Britain, 240, 241  
 licence to drive foreign car in Great Britain, issue of, 242  
 motor cycles, requirements of, as to, 239  
 number plates on foreign cars in United Kingdom, 244  
 particulars to be marked  
     on foreign cars in Great Britain, 242  
     British cars proceeding abroad, 244  
 permit to foreign driver to drive in Great Britain, defacement, alteration or imitation of, 240  
 form of, 240  
 how obtained, 240  
 loss of, 240

# INDEX

## International law—*cont.*

- permit to use foreign car in Great Britain,
  - duration of, 240
  - surrender of, 241
- re-export of foreign car from Great Britain, surrender of permit on, 241
- register of foreign cars licensed in Great Britain, 240
- registration card for foreign car,
  - how carried, 242
  - issue of, 242
  - loss of, 242
  - production of, 242
  - regulations as to, 242
- registration number for foreign car in Great Britain, 240, 241
- sale of foreign car in Great Britain, position in case of, 241
- travelling pass for
  - British cars abroad, how obtained, 244
  - cars proceeding abroad, duration of, 244
  - foreigners to visit Great Britain, 238, 239

Interpleader proceedings on execution. *See* Execution

Intoxication. *See* Drunkenness

Invalid carriage,
 

- licence for, how displayed, 29
- may be a motor car, 17
- rate of duty on. *See* Excise Duty

Issue of licence. *See sub* Driving licence, etc  
 licence card. *See* Licence

## J.

- Jewellery, carriage of. *See* Carriage of goods
- Jib-crane, maximum weight of locomotive carrying, 11
- Jobmaster, when carriage let by, is hackney carriage, 50
- Joinder of parties
  - in cases as to excessive weight. *See* Excessive weight
  - claim based on extraordinary traffic. *See* Extraordinary traffic
  - information, 95

## Jurisdiction

- as to claims based upon
  - excessive weight, 156
  - extraordinary traffic, 156
- charge made in wrong, 97
- summary. *See* Summary jurisdiction
- test of, by mandamus, certiorari, or prohibition, 105
- special case, 102

## Justices,

- bias of, remedies in case of, 105
  - what can establish, 106
- control of, by High Court, 105
- discretion of, as to issue of warrants, 95
- not heard on special case, 104
- position of, as to costs of special case, 104
- powers of
  - as to hackney carriages and offences relating thereto. *See* Hackney carriages
  - in cases of non-repair of highways. *See* Highway
  - to award compensation to person injured by hackney carriage, 186
  - to state a case. *See* Special case
- signature of special case by, 103
- stating a case. *See* Special case

## K.

King's enemies, common carrier not liable for act of, 123

## L.

- Label on vessels containing petroleum, 112
- Lamp. *See* Lighting
  - on motor car,
    - attachment of, 5
    - construction of, 5
    - light from, must be immovable, 5
  - provincial stage carriages, regulations as to, 235
- Land, acquisition of, for roads. *See* Roads

# INDEX

Larceny of vehicle covered by hire-purchase agreement. *See* Hire-purchase agreements

Latent defects, responsibility of lessor for. *See* Hire

Learners

carriage of, beside driver of London stage carriage, 217

Leave, special,

to exceed usual maximum weight of locomotive, 10  
width of locomotive, 10

Leaving

car, obstruction by. *See* Obstruction

precautions required on, 89  
hackney carriage unattended. *See* Hackney carriage

Left, keeping to. *See* Rule of road

Lender of vehicle. *See* Loan

Lessor of vehicles, duties of. *See* Hire

Lettering on identification plates, 39

Level crossing,

maintenance of,  
by railway company, 136  
interpretation of statutes imposing duty to provide for, 136, 137

Liability of common carrier. *See* Carriage of goods

Licence

fees, application of, 51  
for hackney or stage carriage.

*See* Hackney carriage and Stage carriage

male servant. *See* Male servant

vehicle,

defacement of, 30  
destruction of, 30  
display of, 36  
duty payable on, after expiration of international permit, 243  
expiry of, notice of, holder not entitled to, 34

holding of, no defence in action for excessive weight, 148  
nuisance, 58

Licence—*cont.*

for vehicle—*cont.*

issue of duplicate of, 30  
loss of, 30

steps as to, on change of ownership, 30

surrender of, on refund of duty, 30  
transfer of, 30

general. *See* Licensing of vehicles

quarterly. *See* Licensing of vehicles

to drive hackney or stage carriage. *See* Hackney carriage and Stage carriage

keep petroleum. *See* Petroleum

Licences

driving. *See* Driving licence

excise. *See* Excise

Licensing of vehicles, 25

ambulance, licence required for, 46

application for licence, proceeding for fraud as to, onus of proof in, 35

as hackney carriages. *See* Hackney carriage

as stage carriages. *See* Stage carriage

by whom done, 25

duties payable on. *See* Taxation

effect of alterations as to, 36

fire-engine, licence required for, 46

for specific purpose, 35

fraudulent alteration of licence, 35

general licences, 26

appeal from refusal of, 32

application for, to whom made, 31

attachment of, to plate, 36

date of expiry of, to appear on licence card, 32

duration of, 28

duty payable on, 31

excise, penalty for misuse of, 34

in respect of what vehicles issued, 31

issue of plates with. *See* Identification plates

issue of, powers of Minister of Transport to make regulations as to, 32

# INDEX

## Licensing of vehicles—*cont.*

### general licences—*cont.*

licence card, contents of,

32

issue of, 32

Minister of Transport may

issue an appeal, 32

more than one, can be

held, 33

procurable for quarter of

year, 31

record of use of,

must be kept, 32, 34

production of, 34

recording use of, 33

scope of, 26, 33

serial number of, 32

to whom issued, 26, 31

when, may be used, 32

### licence

covering fleet of similar

vehicles, 37

for single vehicle, 26

application for, 27

duration of, 27

form of, 27, 28

holder for, 28

how displayed, 28

issue of new, after

alteration, 29

position as to, when

vehicle is exported,

destroyed, or

broken-up, 29

when must Council

issue, 27

when, must be dis-

played, 28

offences as to, 34

ordinary, form of application

for renewal, 31

renewal of, 30

surrender of expired,

31

penalty for using unlicensed

vehicle, 43

prosecutions relating to, onus

of proof on accused in, 34

regulations for, 25

roller, licence of, need not be

carried on, 46

necessity of licence for,

46

through Post Office, 25

tramcar, licence need not be

carried on, 46

types of licence, 26

using unlicensed vehicle, pen-

alty for, 34

## Lien,

garage proprietor does not

acquire, 109

in case of vehicles covered by

hire - purchase agreements.

*See* Hire - purchase agree-

ment

innkeeper has, on vehicles of

guests, 109

of common carrier, extent of,

127

of repairer, 110

## Light locomotive,

definition of, 16

*See* Motor car

## Light railway,

carriage on, not an "omnibus,"

224

vehicles on, when covered by

enactments as to Metro-

politan stage carriages, 188

## Lighting,

aiding and abetting offences as

to, 67

colours of lights, 66, 68

construction of lamp, 66

dazzling, 66

exposure of petroleum con-

tainers to. *See* Petroleum

lamp able to be moved about

prohibited, 66

must be provided with

screens, in case of loco-

motive, 68

liability of owner for offences

as to, 71

lighting-up times, 66, 68

to be fixed by local time,

68

obstruction of lamp, 66

of combination, 67

identification plates, 39, 68

on locomotive, 68

times for, 40

locomotives, 68

Metropolitan stage car-

riages, 216

motor cycle, 67

rear identification plate, 66

side car, 67

trailer, 68

owners may be responsible for

servants as to, 67

penalty for offences as to, in

case of locomotive, 68

position of lamp, 66, 68

regulations as to, for London

cabs, 210

times for lighting-up, 66, 68

# INDEX

- Limit of speed. *See* Speed
- Limitation of actions
  - as to extraordinary traffic. *See* Extraordinary Traffic
  - period of, under Public Authorities Protection Act, 1893. *See* Public Authorities Protection Act
- Load of trailer, weight of. *See* Weight
- Loan
  - of registration book fraudulently, 41
  - vehicle, 121
    - incidents of, when gratuitous, 121, 122
    - is personal contract, 122
    - position when vehicle defective, 122
    - while another repaired, general licence cannot be used for, 33
- Loans for roadmaking. *See* Roads
- Local Authorities,
  - liability of, for damage caused by dangers on highways, 160
  - powers of,
    - as to loads of trailers, 91
    - ten-mile areas, 71
    - to regulate speed of locomotives, 74
    - require vehicles to come and be weighed, 92
    - set-up weighing machines, 92
  - test of petroleum by. *See* Petroleum
- Local Board,
  - powers of, as to hackney and stage carriages. *See* Hackney carriage and Stage carriage
  - See* Urban Councils
- Local taxation officers,
  - meaning of, 26
  - power of, to inspect registration book, 37
  - right of, to inspect record of use of general licence, 34
- Locomotive,
  - alteration of. *See* Alteration
  - assistance for horses passing, 59
  - attendance on, 59
  - carrying dynamo, maximum weight of, 11
  - carrying jib-crane, maximum weight of, 11
- Locomotive—*cont.*
  - consumption of smoke by. *See* Smoke
  - damage caused by. *See* Damage
  - driver of. *See* Driver
  - emission of smoke by. *See* Smoke
  - emission of sparks by. *See* Sparks
  - for ploughing. *See* Ploughing
  - heavy. *See* Heavy locomotive
  - horses passing. *See* Horse
  - in City of London. *See* City of London
  - is not generally a nuisance, 55
  - licence for. *See* Licensing of vehicles
  - light. *See* Motor car
  - lights on. *See* Lighting
  - maximum weight of, carrying winding-drum, 11
  - origin of law regarding, 1
  - owner of. *See* Owner
  - rate of duty on. *See* Excise duty
  - registration of. *See* Registration of vehicles
  - size of. *See* Size
  - speed of. *See* Speed
  - taxation of. *See* Taxation
  - used "in connection with agriculture," 44
  - weight of. *See* Weight
  - width of. *See* Width
- Lodging special case. *See* Special case
- Loitering, penalty for, with London cab, 210
- London,
  - City of. *See* City of London
  - definition of, 214
  - See* Metropolis and City
- London County Council,
  - authority of, as to width and weight of locomotives, 10
  - information as to endorsement of licences held by foreigners to be sent to, 23
  - powers of, as to permits for foreign cars, 240
  - regulation of traffic by, 171
  - when, must approve bye-laws of Common Council, 10
- Loose equipment. *See* Equipment
- Loose tools. *See* Tools

## INDEX

- Lopping of trees or hedges, compulsory. *See* Highway
- Lord Mayor of London,  
powers of,  
as to cab stands in City.  
*See* Hackney carriage  
to regulate traffic in the  
City, 171, 212
- Loss  
of driver's ticket. *See* Hackney  
carriage  
licence. *See* sub Driving  
licence, etc.  
permit for foreign driver to  
drive in U.K., 240  
registration book, 38
- Lost property  
cabdrivers' duty as to, 207  
how dealt with, when left in  
London cabs, 207  
passenger finding, in cab, 207  
unclaimed, how disposed of, 207
- Luggage  
carriage of, on London stage  
carriages, 212  
extra charge for, on cab in  
Metropolis, 206  
measurement of, carried by  
London stage carriage, 212  
quantity hackney carriage  
must carry in Metropolis, 206  
*See* Passengers' luggage
- M.**
- Machinery  
driver must be able to stop, 8  
may be run to remedy defect,  
when otherwise forbidden, 8
- Magistrates  
appeals from. *See* Appeal  
discretion of. *See* Discretion  
powers of, as to  
disqualification. *See* Driv-  
ing licence  
endorsement. *See* Driving  
licence  
suspension. *See* Driving  
licence
- Mail contractor. *See* Carriage of  
goods
- Main-road  
rule of road as to, 62  
what is, 139
- Maintenance  
of roads. *See* Roads  
lien does not arise under con-  
tract for, 11
- Make of vehicle to be entered on  
licence, 28
- Male servant,  
apprentice not, 49  
chauffeur is, for taxation pur-  
poses, 48  
definition of, 48  
demand for declaration of lia-  
bilities as to, 49  
Excise duty on. *See* Excise  
duty  
licence for, 49  
part-time, position of, as to  
taxation, 48  
penalty for employing, without  
licence, 49
- Mandamus,  
discretion as to, 105  
enforcement by, of decision of  
Minister of Transport as to  
general licence, 32  
objects of, 105  
when obtainable, 32, 105
- Mandatory injunction. *See* In-  
junction
- Manufacturer,  
delivery to or from, use of  
general licence on, 32  
issue of general licences to, 31
- Mark, registration. *See* Registra-  
tion mark
- Market overt, sale in. *See* Sale
- Marking  
of axle-weight. *See* Axle  
weight  
speed of motor-car. *See*  
Speed  
weight. *See* Weight
- Master and servant. *See* Servant
- "Matter of complaint." *See* Hack-  
ney carriage
- Maximum  
axle-weight. *See* Axle-weight  
rate of speed. *See* Speed  
weight. *See* Weight  
width. *See* Width
- Mayor and Aldermen of London,  
powers of, as to regulation of  
traffic, 171, 212
- Measurement of diameter of wheels,  
7
- Mechanically cushioned tyres. *See*  
Wheels

# INDEX

Medical certificate of fitness to drive hackney carriage. *See* Hackney carriage

Meeting traffic. *See* Rule of road

Menai Bridge, use of by motor cars, 170

Metal, trailer carrying, weight of, 91

Metropolis

definition of, 170, 219

furious driving in, 78

hackney and stage carriages in.

*See* Hackney carriage and Stage carriage

licence to keep petroleum in.

*See* Petroleum

obstruction in, 87

position as to extraordinary traffic in. *See* Extraordinary traffic

regulation of traffic in, 170, 171, 212

Minister of Transport

appeal to, against refusal of licence for stage carriage in Metropolis, 196, 225  
as to closing of bridges, 167

approval by, of trials promoted by associations and clubs, 32

confirmation by, of bye-law closing a bridge, 168

controls Road Fund, 52

has replaced Road Board, 52

power of,

as to identification plates, 39

to construct new roads, 52

contribute to upkeep of roads, 53

create ten-mile areas, 71

forbid use of heavy motor cars on bridges, 170

issue general licence on appeal, 32

make regulations as to issue of general licences. *See* Licensing of vehicles

regulate speed of tractors, 75

restrict use of mechanical transport in highways, 166

settle contents of registration books, 37

Minister of Transport—*cont.*

power of, to vary requirements as to tyres of locomotives, 13  
special approval by, of types of wheel for increased weight, 11

Misbehaviour of cab-driver. *See* Hackney carriage

Misleading particulars on declaration. *See* Fraud

Misstatement of weight of locomotive, fraudulently, an offence, 13

Misstatements. *See* Fraud

Motor ambulance,

heavy locomotive used as, licence required for, 46

Motor car

alteration of. *See* Alteration

brakes of. *See* Brakes

construction of. *See* Construction

consumption of smoke by. *See* Smoke

vapour by. *See* Vapour

definition of, 16

driver of. *See* Driver

equipment of. *See* Equipment  
examples of what vehicles are, 17

garaging of. *See* Garage

"heavy." *See* Heavy motor car

hiring of. *See* Hiring

in City of London. *See* City of London

instrument of warning on. *See* Warning

is not generally a nuisance, 55

lamps on. *See* Lamps

legally only special kind of locomotive, 1

licence of. *See* Licensing of vehicles

licensing of driver of. *See* Driver

lights on. *See* Lighting

loan of. *See* Loan

maximum width of, 3

must not be a nuisance, 9

no vehicle is a, unless constructed to consume smoke, 17

"offence in connection with the driving of," meaning of, 21

# INDEX

## Motor car—*cont.*

origin of law regarding, 1  
owner. *See* Owner  
petroleum used for, regulations  
as to. *See* Petroleum  
registration of. *See* Registra-  
tion of vehicles  
silencer of. *See* Silencer  
speed of, statement of. *See*  
Speed  
taxation of. *See* Taxation  
tyres of. *See* Tyres  
use of, abroad. *See* Inter-  
national law  
weight of. *See* Weight  
when, must have reversing  
gear, 3

## Motor cycle

combination is a, 18  
general licence limited to, 31  
is a carriage, 87  
licence for, how displayed, 29  
licence to drive, only, 18  
lighting of identification plates  
on, 40  
lights on, 67  
no definition of, in Motor Car  
Act, 1903...17  
ordinary bicycle with power  
attachment is, 17  
position of identification plates  
on, 39  
rate of duty on. *See* Excise  
Duty  
registration of. *See* Registra-  
tion of vehicles  
silencer for. *See* Silencer  
taxation of. *See* Taxation  
use of, abroad. *See* Inter-  
national law

## Motor drivers. *See* Driver

electric. *See* Electric motor  
scooter, rate of duty on.  
*See* Excise Duty

## Motor tax account,

establishment of, 51  
transfers from, 51  
what to be paid to, 51

## Motor Union

powers of, as to  
cars proceeding abroad,  
244  
permits for foreign cars,  
240

Moveable feet on driving wheels of  
locomotives, 13

Mutilation of registration book, 37,  
41

## N.

### Name,

driver must give, after accident,  
83  
obligation of driver to give,  
81, 83  
of driver, when owner must  
furnish, 82  
licensee to appear on general  
licence card, 32  
owner of locomotive must be  
affixed, 13  
owner, when required to be  
painted on vehicle, 8, 13,  
200  
proprietor of stage carriage,  
must be painted on  
vehicle, 212  
penalty for driver giving false, 81  
refusal of, arrest for, 81

Narrow roads, rule of road in, 61

### Negligence

as to entering main roads, 63  
breach of rule of road, *prima*  
*facie* evidence of, 61  
by use of dangerous vehicle, 64  
contributory, 59  
how far, is defence in  
action for nuisance, 58  
of passenger. *See* Carriage  
of passengers  
driving without necessary skill  
may show, 65  
evidence of, 65  
in driving. *See* Driving  
use of highway, 59  
not necessary to prove, in  
action for nuisance, 58  
of cab-driver. *See* Hackney  
carriage  
common carrier, how far  
special contract affords  
protection in case of, 124  
driver, owner's responsibility  
for, 63  
guest, when innkeeper re-  
lieved from liability by,  
108  
highway authorities. *See*  
Highway  
hirer of vehicle. *See* Hire  
servant. *See* Servant  
third party, damage to  
vehicle at repairer's by,  
111  
unreasonable adherence to rule  
of road may be, 61

New owner. *See* Owner

# INDEX

## Noise

driver must be able to prevent by stoppage of machinery, 8  
Metropolitan stage carriage, regulations as to, 215  
of exhaust gases. *See* Silencer  
reduction of. *See* Silencer  
when defect in machinery being remedied, 8

Notice board indicating that road is closed to motor traffic, 166

## Notices

in London stage carriage, what are required, 216  
limitation of liability of carrier of passengers by. *See* Carriage of passengers  
limiting liability of common carrier. *See* Carriage of goods  
"not to use." *See* Hackney carriage and Stage carriage  
of appeal. *See* Appeal  
change of ownership. *See* Owner  
closing of road to motor traffic, 165  
expiry of licence. *See* sub Driving licence, etc.  
insufficiency of bridge for heavy traffic. *See* Bridge  
intended prosecution. *See* Prosecution and Speed  
intention to seek confirmation of bye-law closing a bridge. *See* Bridge  
order closing road to motor traffic, 165  
prosecution  
for overloading metropolitan stage carriage, 190  
not required in case of speed limits created under Locomotives on Highways Act, 1896...166  
special danger near petroleum store. *See* Petroleum  
to come and be weighed. *See* Weight unladen  
produce driving licence at trial, 73, 80

## Nuisance,

absence of sufficient control may amount to, 57  
access to premises, unreasonable user of, may be, 56

## Nuisance—cont.

action for, 55, 58  
compliance with regulations as to construction and equipment no defence in, 9  
breach of Use and Construction Order does not prove, 65  
by unreasonable user of highway, 55  
conspicuous vehicles may be, 57  
contributory negligence as defence in action for, 58  
damages for, 55  
dangerous vehicle may be, 57, 64  
defence in action for, 9, 58  
distinction of extraordinary traffic from, 143  
emission of sparks may be, 55  
indictment for, 55, 58  
injunction to restrain, 55, 58  
is a question of fact, 55, 56  
locomotive is not generally, 55  
motor car is not generally, 55  
negligence not essential feature of, 58  
ploughing near highway may be, 59  
public utility no defence in action for, 58  
repair of vehicle on highway may be, 56  
restraint of, by injunction, 55, 58  
tendency to skid may amount to, 57, 65  
unreasonable use of access to highway is, 56  
use of highway must not be, 55  
vehicle  
likely to damage property may be, 57  
frighten may be, 56  
must not be, 9  
standing before a shop may be, 56  
waiting for passengers may be, 56  
when excessive weight is, 55

Number. *See* Registration  
of trailers permitted. *See* Trailers  
on identification plates, 39  
to appear on general licence card, 32  
serial. *See* Licensing of Vehicles

## INDEX

Number plates  
 for hackney and stage carriages.  
*See Hackney carriage and Stage carriage*  
 illumination of, failure in,  
 driving licence may be sus-  
 pended for, 21  
 on foreign cars in U.K. *See*  
 International law

### O.

Obliterating  
 number plate. *See Hackney carriage and Stage carriage registration book*, 41  
 Obscuring registration plates, 42  
 Obstructing the police. *See Police revocation of licence of public vehicle for*, 198  
 Obstruction, 84  
 as a ground for suspension or endorsement of licence, 86  
 by heavy locomotives, 92  
   London cab, penalty for, 210  
   London stage carriage, 218  
   repairing vehicles, 86  
 conduct calculated to cause, amounts to, 84  
 defence in case of, 85  
 driving licence cannot be suspended or endorsed for, 21  
 evidence of, 84, 86  
 in cases where there are tram-cars, 85  
   Metropolis, 87  
 is a question of fact, 84  
   not an offence "in connection with driving," 86  
 of entry in registration book, 37  
   highway by trees or hedges, remedy for, 162, 163  
   lamp. *See Lighting*  
   officials wishing to test petroleum. *See Petroleum*  
   on highway, removal of. *See highway*  
   penalty for, 85  
   police evidence sufficient to prove, 86  
   what is, 84

Offences  
 as to driver's ticket. *See Hackney carriage*  
 employing an unlicensed driver, 23

### Offences—*cont.*

as to failing to produce driving licence for endorsement, 23  
 record use of general licence, 34  
 identification, 40  
 licences to drive hackney carriages. *See Hackney carriage*  
 lighting registration plates, 42  
 lights on locomotive, 68  
 not consuming smoke. *See Smoke*  
 obtaining licence without disclosing endorsements, 23  
 registration, 40  
 registration plates, 41  
 "in connection with the driving of a motor car," meaning of, 21  
 registration of, in register of licences for public vehicles, 226  
 what, justify suspension of driving licence, 20  
 with heavy locomotives, liability for, 93  
 stage carriages. *See Stage carriage*

Office is not place of abode, 96

Oil, what, is "petroleum." *See Petroleum*

Omnibus,  
 appeal against refusal to license, 225  
 definition of, 223  
 plying for hire with, what is, 224  
 railway, position of, 224  
 regulation of, in Metropolis, 170, 171  
 when covered by enactments as to Metropolitan stage carriages, 188

Onus of proof,  
 on accused in licensing prosecutions, 34  
 proceedings as to misleading application for licence, 35  
 charge of fraud as to registration, 41

Operation of brakes. *See Brakes*

## INDEX

Option to purchase. *See* Hire-purchase agreement

"Order and disposition." *See* Bankruptcy

### Order

closing road for motor traffic,  
notice of, 165  
penalty for breach of, 166  
revocation or amendment  
of, 166

relating to construction, 2  
equipment, 2

under Locomotives on Highways Act, 1896...2

*And see* under each specific Order

### Ordinary traffic,

highway authority must provide for, 58

what is, on highway. *See* Highway

### Owner,

address of. *See* Address

change of

effect of, as to registration  
book, 41

procedure as to registration  
book on, 37

steps as to licence on, 30

duties of,

on highways, 59

to aid in identification of  
driver, 82

to facilitate arrest of  
driver, 82

to furnish name and  
address of driver, 82

joint, liabilities of, 82

liability of,

for acts of servant, 71

lighting offences, 71

negligence of driver, 63

offences with heavy  
locomotives, 93

servant, as to lighting,  
67

voluntary driver, 64

to unauthorised passengers, 64

name and address of

driver must give, after  
accident, 83

when required to be  
painted on vehicle, 8,  
13, 200

new, must notify council of  
change, 30

name of, to be entered in  
registration book, 37

### Owner—*cont.*

of locomotive

liable for damage caused  
by sparks, 10

liable for damage caused  
by it, 13

name and address of,  
must be affixed, 13

responsibility of, for act  
of servant, 14

trees and hedges, who is, 163

registered owner cannot deny  
that he is, 82

requisition on, for information  
as to driver, form of, 82

who is, of vehicle, 82

## P.

Package of goods. *See* Carriage of goods

### Painting

of name and address of owner.

*See* Owner

speed of motor car. *See*

Speed

weight of motor car. *See*

Weight

use of general licence on  
journey for, 32

Paris Convention. *See* International law

Parish council not indictable for  
non-repair of highway, 142

Parliament, presentation to, of  
Road Fund accounts, 52

### Particulars

as to claim based on extra-  
ordinary traffic. *See* Extra-

ordinary traffic

false or misleading. *See* Fraud

Parties, joinder of. *See* Joinder of parties

Parts. *See* Spare parts

weight of, how computed for  
calculating weight unladen,  
25

### Passengers,

carriage of. *See* Carriage of  
passengers

in hackney carriage. *See*  
Hackney carriage

in stage carriage. *See*  
Stage carriage

# INDEX

## Passengers—*cont.*

carriage of—*cont.*

may be extraordinary traffic, 150

luggage, owner of stage carriage is common carrier of, 123

proprietor of hackney carriage is not a common carrier of, 123

obstruction of stage carriage setting down, 230

unauthorised, liability of owner to, 64

unreasonable waiting to pick up, a nuisance, 56

vehicles used for carriage of, not wagons or carts, 8

Passes, travelling. *See* International law

Passing traffic. *See* Rule of road

Pasturage, right of, beside highway, responsibility for animals in case of, 164

Payment, when claimable on contract for repairs, 110

Pedestrians, danger to. *See* Danger

Pedrail on driving wheels of locomotive, 13

## Penalties,

application of, 50

for affixing fraudulent tare to trailer, 91

aiding and abetting driving offence, 80

breach of petroleum regulations, 113, 118

defacement, alteration, or obliteration of registration book, 41

driver giving false name or address, 81

employing male servant without licence, 49

exceeding authorised capacity of hackney carriage, 50

the speed-limit, 69

excessive weight, 11

failure

to affix to locomotive name and address of owner, 13

keep record of use of general licence, 34

produce driving licence, 20, 83

## Penalties—*cont.*

for false or misleading application for licence, 35

forgery of registration Book, 41

fraud as to registration, 41

furious driving, 77

non-display of plates, 42

non-production of registration book, 41

non-repair of highway, 138

non-return of trade plates, 42

not keeping to left of road, 60

obstructing or refusing information to officials wishing to test petroleum, 114

obstruction, 85

offences as to lights on locomotive, 68

offences with stage carriages. *See* Stage carriage

owner withholding information as to driver, 82

refusal of name and address by driver, 81

refusing to proceed to weigh-bridge, 92

use of unlicensed vehicle, 34, 43

using licensed vehicle for unauthorised purpose, 46

using road closed to motor traffic, 166

if registration plates not easily distinguishable, 42

power of councils to mitigate or remit, as to excise duties, 26

*See also sub* particular offence in question

Permits for foreign drivers. *See* International law

Personal contracts, repair contracts are, 109

## Petroleum

amount allowed to be stored, 116

containers for, labels required on, 116

permitted capacity of, 116

requirements as to, 116

definition of, 112

escape of, must not be permitted into drains, 118

# INDEX

- Petroleum—*cont.*  
 explosion of, precautions re-  
 quired against, 117  
 for use with motor cars, regula-  
 tions as to, 114, 115  
 forfeiture of, for breach of  
 regulations, 113  
 kept on sale, regulations as to,  
 115  
 label on vessels containing, 112  
 licence to keep  
   appeal against refusal of or  
   conditions attached to,  
   113  
   conditions in, 113, 118  
   duration of, 113  
   fee for, 113  
   renewal of, 113  
   when, necessary, 113  
   who can issue, 113  
 mixtures including, 112  
 obstruction of officials wishing  
 to test, 114  
 penalty for breach of regula-  
 tions as to, 113  
 precautions against fire in case  
 of, 117  
 regulations as to  
   penalty for breach of, 118  
   prosecution for breach of,  
   114  
 restrictions as to use of lights  
 near containers for, 117  
 sale of, 112  
 samples may be taken of, 114  
 special rules as to, for use for  
 motor cars, 111  
 spirit, definition of, 112  
 storage of, 111, 112  
   inspection of, 114  
 storehouses for  
   definition of, 115  
   entrances required to, 116  
   maximum contents of, 116  
   may not be used as a  
   dwelling, 116  
   notice of special danger  
   near, 116  
   ventilation of, 116  
   what is, 115, 116  
 testing of, 112, 114  
   costs of, 114  
 use of, for cleaning or repair of  
 tyres, 117
- Photograph of applicant for licence  
 to drive hackney carriage. *See*  
 Hackney carriage
- Picking-up of passengers. *See*  
 Passengers
- Pipes under highway  
 damage to, 57  
 injunction to restrain injury to,  
 58
- Place of abode  
 lock-up shop is not, 96  
 office is not, 96
- Plate  
 identification. *See* Identifica-  
 tion plate  
 trailer carrying single, weight  
 of, 91  
 tyres constructed of. *See* Tyres
- Pledge  
 by "person who has agreed to  
 buy" valid, 131  
 of vehicle covered by hire-  
 purchase agreement. *See*  
 Hire-purchase agreement
- Plough engines, attendance on, 90
- Ploughing  
 locomotives used for, near  
 highway, 59  
 near highway may be nuisance,  
 59
- Plying for hire  
 carriage, is a hackney carriage,  
 50  
 driving licence does not autho-  
 rise, 19  
 except at standing, forbidden,  
 210  
 forbidden opposite General  
 Post Office, 201  
 "in a street," what consti-  
 tutes, 194  
 on Sundays permitted, 200  
 position of cab in railway  
 station as to, 202  
 what constitutes, 193  
   is a question of fact, 193  
   what is, with an omnibus, 224  
   when stage carriage deemed to  
   be, 211  
   vehicle deemed to be, 202  
   whether vehicle is used for,  
   depends on general user, 194
- Police  
 City, powers of, to regulate  
 traffic, 170  
 evidence of, sufficient to prove  
 obstruction, 86  
 inspection of registration book  
 by, 41  
 obstruction of, when warning  
 as to trap is, 72

## INDEX

- Police—*cont.*  
     power of  
         to arrest for  
             absence of identification marks, 81  
             breach of traffic regulations, 171  
             driving to common danger, 76  
             furious driving, 77  
             improper driving, 80  
         demand production of cab-driver's licence, 20, 83, 182  
         give notice of intended prosecution, 70  
         impound hackney carriage left unattended, 230  
         inspect record of use of  
             general licence, 34  
             registration book, 37  
         procure copies of Register of Vehicles, 38  
         service of summons by, 96
- Police-trap. *See* Speed
- Position of identification plates, 39
- Post, service of summons by, 96
- Postmaster-General, application of duties by, 51
- Post office, issue of licences for vehicles by, 25
- Power attachment, auxiliary, makes bicycle a motor cycle, 17
- Precious stones, carriage of. *See* Carriage of goods
- Premises, access to, unreasonable user of, may be nuisance, 56
- Previous convictions, strict proof of, required, 73
- Production  
     of driver's ticket. *See* Hackney carriage  
     licences. *See sub* Driving licence, etc.  
     record of use of general licence, 34  
     registration card for foreign car in U.K. *See* International law
- Prohibition  
     discretion as to, 105
- Prohibition—*cont.*  
     uses of, 105  
     writ of, when, obtainable, 105
- Proof  
     of previous convictions, 73  
     onus of. *See* Onus of proof
- Property  
     lost. *See* Lost property  
     vehicle likely to damage, a nuisance, 57
- Proprietor of garages. *See* Garage
- Proprietor of hackney carriage. *See* Hackney carriage
- Prosecution  
     for breach of petroleum regulations, 114  
     intended, notice of, where essential, 94  
     notice of intended, 94, 190  
     warning of intended, for excessive speed. *See* Speed
- Pruning of trees or hedges, compulsory. *See* Highway
- Public  
     access of, to road, puts it on footing of highway for licence purposes, 16  
     advantage is no defence in action for nuisance, 58  
     danger, driving to the. *See* Driving  
     enquiry as to proposed traffic regulations in the City, 172  
         before closing road to motor traffic, 165  
     nuisance. *See* Nuisance  
     resort, furious driving in place of, 78  
     utility, no answer to action for nuisance, 58  
     weighing machine. *See* Weighing
- Public Authorities Protection Act, 1893  
     application of, to actions against highway authorities. *See* Highway  
     *See* Extraordinary traffic and Excessive weight
- Publication of bye-laws. *See* Bye-laws
- Purchaser  
     delivery to, use of general licence on, 32  
     trial by, use of general licence on, 32

## INDEX

### Q.

- Quarter Sessions,  
 appeal to. *See* Appeal  
 "next practicable," what is, 99
- Quarterly licence. *See* Licensing of  
 vehicles
- Quashing a conviction. *See* Con-  
 viction

### R.

- Railway  
 level crossings over. *See* Level  
 crossing  
 omnibus, position of, 224  
 station, position of cab at, as  
 to plying for hire,  
 202  
 use of general licence  
 for journey to, 32
- Rate of duty. *See* Excise duty
- Rear axle. *See* Axle
- Rear lamp. *See* Lighting
- Rebate of duty on fleet of hackney  
 carriages, 50
- Reckless driving  
 production of driving licence  
 after, 20  
*See* Driving
- Recognisance  
 on demand for special case, 102  
 to appear on adjournment, 97  
 prosecute appeal, 101  
 with sureties, 97
- Record of use of general licence, 33  
 penalty for failure to keep, 34  
 production of, 34
- Recovery of penalties for offences  
 with hackney carriages. *See*  
 Hackney carriage
- Recreation ground, furious driving  
 in, 78
- Reduction of duty. *See* Excise  
 Duty
- References, on application for  
 licence to drive hackney carriage,  
 178
- Reflection, lighting of plates by, 39
- Refund of duty  
*See* Excise Duty  
 when obtainable, 30

### Refusal

- of name and address. *See*  
 Driver  
 petroleum licence, appeal  
 against. *See* Petroleum  
 to grant licence. *See sub*  
 Driving licence, etc.

### Register

- of foreign vehicles licensed in  
 U.K. *See* International  
 law  
 licences. *See* Driving licence,  
 etc.  
 vehicles to be kept by coun-  
 cils, 38  
 who may procure  
 copies of, 38

### Registered axle-weight. *See* Axle- weight

### Registration

- book  
 accidental defacement of,  
 38  
 alteration of, 37  
 fraudulently, 41  
 if vehicle altered, 41  
 on change of owner-  
 ship, 41  
 contents of, 37  
 correction of, after altera-  
 tion of vehicle, 37  
 defacement or mutilation  
 of, 37, 41  
 destruction of, 38  
 effect of alteration of  
 vehicle as to, 37  
 entry in, alteration or  
 obliteration of, 37  
 forging, 41  
 fraud as to, 41  
 inspection of, 41  
 vehicle, before issue  
 of, 37  
 issue of duplicate, 38  
 inspection of vehicle  
 before, 37  
 loan of, fraudulently, 41  
 loss of, 38  
 none issued when licence  
 covers group of vehicles,  
 37  
 obliteration of, 41  
 procedure as to  
 on change of address, 38  
 owner, 37  
 production of, 37, 41  
 return of, if vehicle de-  
 stroyed or exported, 38,  
 41

## INDEX

### Registration—*cont.*

book—*cont.*

surrender of, on refund of duty, 30

use of, fraudulently, 41  
when issued, 37

card for foreign vehicle in U.K.

*See* International law

fraud as to, 40

mark must appear on identification plates, 38

number,

after expiration of international permit, 243

for foreign car in U.K.

*See* International law

must appear on identification plates, 38

to be entered on licence for vehicle, 28

of axle - weight. *See* Axle-weight

British cars abroad. *See*

International law

foreign cars. *See* International law

vehicles, 25, 36

assignment of index-number and number on, 36

defence in prosecution as to, 42

effect of destruction or export as to, 36

old system of, replaced, 25

unregistered vehicle being run for, 42

offences as to, 40

plates,

display of, penalty for failure as to, 42

indicating hackney carriage. *See* Hackney carriage

not easily distinguishable, 42

obscuring, 42

offences as to, 41

trade, return of, penalty for failure as to, 41

use of general licence on proceeding to obtain, 32

### Regulations

as to petroleum. *See* Petroleum

speed. *See* Speed

weight. *See* Weight

for licensing vehicles. *See* Licensing of vehicles

### Regulations—*cont.*

of traffic. *See* Metropolis, City of London, etc.

power of Minister of Transport to make, as to issue of general licences. *See* Licensing of vehicles

restricting use of mechanical transport on highway. *See* Highway

under Roads Act, 1920, as to licences, 36

### Removal

of conviction by certiorari. *See* Certiorari

number plate. *See* Hackney carriage and Stage-carriage

### Renewal of

licences. *See sub* Driving licence, etc.

petroleum licences. *See* Petroleum

### Repairs,

issue of general licences to, 31

*See* Repairs

### Repairs,

advice as to, warranty of skill by those who give, 109

average expenses of, of highways. *See* Extraordinary traffic

betterment of highway by. *See* Extraordinary traffic

contracts for

are personal, 109

damages for breach of, 110  
when divisible, 110

damage to vehicle deposited for, by negligence of stranger, 111

duty of those undertaking, 109

lien of innkeeper may extend to cost of, 111

those undertaking, 110

loan of another vehicle during, general licence cannot be used for, 33

of bridges. *See* Bridge

highway. *See* Highway

tyres, use of petroleum for, 117

vehicles,

annoyance caused by, 86,

in street, danger caused by, 86

when permissible, 86

obstruction by, 86

# INDEX

Repairs—*cont.*  
 of vehicles—*cont.*  
   on highway,  
     after breakdown,  
       not a nuisance,  
       56  
     may be nuisance,  
       56  
 payment for, when claimable,  
 110  
 test after. *See* Test  
 use of general licence on  
 journey for, 32  
 warranty of skill by those  
 undertaking, 109

Requisition for information as to  
 driver. *See* Driver

Residence, what is, for licence pur-  
 poses, 18

Respite of appeal. *See* Appeal

Restraint of nuisance by injunction,  
 55

Return of trade identification plates,  
 40

Reversing  
 gear, when motor car must  
 have, 3  
 how far permissible, 89

Revocation  
 of licence to drive hackney  
 carriage. *See* Hackney  
 carriage  
 order closing road to motor  
 traffic, 166

Riding. *See* Driving

Road  
 Board, abolition of, 52  
 closing of, to motor traffic.  
*See* Closing road  
 engine. *See* Locomotive  
 ferry, when, included in term  
 "road," 53  
 Fund,  
   accounts relating to, to  
     be laid before Parlia-  
     ment, 52  
   application of, 52  
   establishment of, 52  
   is under control of Minister  
     of Transport, 52  
   loans for purposes of, 52  
   payments to, from Con-  
     solidated Fund, 52

Road—*cont.*  
 roller. *See* Roller  
 rule of the. *See* Rule of road  
 what included in, 53  
*See* Highway

Roads,  
 acquisition of land for, 52  
 application of Road Fund to,  
 52  
 new, Minister of Transport may  
 construct, 52

Roll, trailer carrying, weight of, 91

Roller, licence for. *See* Licensing  
 of vehicles

Routes. *See* Stage carriage

Royal Automobile Club  
 power of  
   as to cars proceeding  
     abroad, 244  
   permits for foreign  
     cars, 240

Royal parks, speed limits in, exceed-  
 ing, endorsement or suspension of  
 licence for, 21, 73

Rule of road, 59  
 as to cross roads, 62  
   locomotives passing traf-  
     fic, 92  
   main-road traffic, 62  
   overtaken traffic, 62  
   passing led horse, 62  
 breach of, is *prima facie* evi-  
 dence of negligence, 61  
 cannot justify wanton damage,  
 61  
 does not make left always the  
 proper side, 61  
 effect of, as to obstruction, 85  
 how far, mere matter of con-  
 venience, 60  
 origin of, 60  
 unreasonable adherence to  
   may be negligence, 61  
   may be obstruction, 84  
 what is left of the road, 60

Rule to justices to state special  
 case. *See* Special case

Rural District Council  
 duty of, as to repair of high-  
 ways. *See* Highway  
 may be indicted for non-repair  
 of highway, 142

# INDEX

## S.

- Safety valve,  
operation of, on highway, forbidden, 92
- Sale  
by "person who has agreed to buy" valid, 131  
in market overt, effect of, when goods covered by hire-purchase agreement. *See* Hire-purchase agreement  
not authorised by lien of common carrier, 127  
of foreign car in U.K. *See* International law  
petroleum. *See* Petroleum  
vehicle by hirer under hire-purchase agreement. *See* Hire-purchase agreement  
petroleum kept for. *See* Petroleum  
use of general licence on proceeding to or from, 32
- Samples of petroleum, power to take. *See* Petroleum
- Sanitary Authority,  
duty of, as to disinfecting public vehicles, 209  
not liable for repair of highway, 141
- Scale of duty. *See* Excise Duty
- Scooter, licence for, how displayed, 29
- Scope of employment. *See* Servant
- Screening lights. *See* Lighting
- Sea-wall  
repair of, may be included in repair necessary to maintain highway, 136
- Searchlight,  
lamp on motor car must not be able to be used as, 5, 66
- Seating capacity  
as basis of duty, 44  
of hackney carriage. *See* Hackney carriage  
to be entered on licence for vehicle, 28
- Secretary of State,  
appeal to, as to petroleum licences. *See* Petroleum  
power of, as to hackney carriage licences. *See* Hackney carriage
- Serial number. *See* Licensing of vehicles
- Servants,  
crimes of, liability of carriers for, 126  
driver of hackney carriage as. *See* Hackney carriage  
Excise Duty on. *See* Excise Duty  
liability of,  
for offences with heavy locomotives, 93  
hirer of vehicle for negligence of, 119  
owner of locomotive for damage caused by, 14  
responsibility of owner for, 67, 71  
scope of employment of, a question of fact, 64  
wrongs of, liability of carrier for, 126
- Service  
of intended prosecution. *See* Speed  
notice of Appeal. *See* Appeal  
special case. *See* Special case  
summons. *See* Summons
- Sewer, petroleum must not escape into, 118
- Shape of identification plates, 39
- Shipment, use of general licence for purpose of, 32
- Shop,  
lock-up, is not a place of abode, 96  
vehicles standing before, may be a nuisance, 56
- Shutters on lamps. *See* Lighting
- Side-car. *See* Combination lights on. *See* Lighting
- Side-lamp. *See* Lighting
- Side-roads, rule of road as to, 62
- Signal  
to locomotive to stop for horses, 93  
when horses approaching locomotive. *See* Horse
- Signposts, denoting ten-mile areas. *See* Speed
- Signs. *See* Notice board

## INDEX

- Silencer,**  
 does manufacturer warrant efficiency of ? 88  
 heavy motor car requires, 5, 88  
 motor car requires, 5, 88  
 necessity for, 88  
 standard not necessarily sufficient, 88  
 what constitutes, 5
- Silver, carriage of.** *See* Carriage of goods
- Single article, trailer carrying, weight of, 91**
- Size**  
 of identification plates, 39  
 Metropolitan stage carriages, limits of, 215
- Skidding,**  
 likelihood of, may be a nuisance, 57  
 regulations as to, for London cabs, 210  
 tendency to, may be nuisance, 65
- Skill,**  
 degree of, required by driver. *See* Driver of repairers. *See* Repairs  
 want of, may establish negligence, 65
- Smoke,**  
 emission of,  
   by locomotive, due to accidental or temporary cause, 9  
   London stage carriage, 215  
   caused by defects in or operation of machinery, 9  
 how far motor car must consume, 16, 17  
 locomotive must consume its own, 9  
 no vehicle is a motor car unless constructed to consume, 17
- Snow, removal of, from highway.** *See* Highway
- Societies, trials promoted by.** *See* Trials
- Southwark, stage carriages in, special regulations as to, 212**
- South Wales, position as to extraordinary traffic.** *See* Extraordinary traffic
- Sparks,**  
 emission of, a nuisance, 55  
 from locomotive, damage by, liability for, 10
- Special case,**  
 application to justices for, 102  
 costs on, 104  
 counsel heard on, 104  
 defects on face of, 103  
 essential contents of, 102  
 form of, 102, 103  
 hearing of, 104  
 how far conclusive as to facts, 103  
   statement of, is demanded, 102  
 justices not heard on, 104  
 lodging of, at Crown Office, 104  
 recognisance on demand for, 102  
 refusal of, when justified, 103  
 rule to justices to state, 103  
 service of, 103  
 signatures of justices to, 103  
 time for demanding statement of, 102  
   lodging, 104  
   stating, 102  
 when justices may state, 104  
 who may require justices to state, 101, 102
- "Special limits," powers of police in, in Metropolitan, 171**
- Speed**  
 dangerous, suspension of licence for, on first offence, 21  
   *See* Driving  
 endorsement of licence for, 72  
 excessive. *See* Limit of limit of,  
   conviction for exceeding, 69  
   cannot be obtained on charge of driving to the danger, 97  
   creation of, under Locomotives on Highways Act, 1896...166  
   evidence of exceeding, 69  
   exceeding, suspension of driving licence for, 21  
   when charge of, barred by conviction for driving to the danger, 79  
   for heavy locomotives, 74

## INDEX

### Speed—*cont.*

#### limit of—*cont.*

- for heavy motor cars, 74
  - effect of
    - axle - weight as to, 75
    - tyres as to, 75
    - weight unladen as to, 75
- locomotives, 74
  - does not bind Crown, 74
- motor car, 69
- tractors, 75
- in Royal parks, how fixed, 21
  - endorsement or suspension of licence for, 21, 73
- intended prosecution for exceeding,
  - notice of, proof of, 71
  - service of, 71
  - what notice of, must contain, 70, 94
- meaning of, in Act of 1903, 21
- notice of intended prosecution for exceeding, 94
- penalty for exceeding, 69
- proof of previous convictions for exceeding, 73
- prosecution for exceeding,
  - notice required of, 69
  - time for giving warning of, 69
  - what is sufficient notice of, 70
- regulations as to, for hackney carriages. *See* Hackney carriage
- what is, for purpose of Motor Car Act, 1903...72
- method of indicating maximum, when required, 6
- Metropolitan stage carriage, regulations as to, 215
- police trap, when warning of, amounts to obstruction, 72
- statement of, when, must be painted on, 6
- ten-mile areas,
  - how created, 69, 71
  - signs denoting, 71
  - variation of regulations as to, 71

Spikes forbidden on locomotive wheels, 13

### Springs

- of heavy motor car, requirements as to, 7
- trailer, regulations as to, 14
- wheels with tyres on. *See* Wheels

### Stage carriage,

- definition of, 188
- driver of, allowing unauthorised to drive, penalty for, 217
- duty on. *See* Excise Duty in Metropolis. *See below*
- is not a hackney carriage, 234
- licence for, 50
  - when required, 174
  - to conduct or drive, where obtainable, 189
  - drive, 174
- number plate for, offences as to, 197
- outside Metropolis. *See below*
- owner of, is common carrier of passengers' luggage, 123
- passengers in, stoppage to allow counting of, 212
  - where, must take up and set down, 218
- plying for hire with. *See* Plying for hire
- tramcar is, 50

### Stage carriage in the Metropolis,

- address of owner of, notification of change of, 198
- advertisements in, regulations as to, 216
- appeal on conviction for offences with, 189
- brakes required on, 215
- certificate of fitness, before licensing, 215
- conductor of,
  - agreement between proprietor and, must be in writing, 189
  - duty of proprietor to produce, 191
  - ticket of, 189
- construction of,
  - approval of types as to, 215
  - regulations as to, 214, 216
- destination of, regulations as to showing, 216
- disputes between proprietors and drivers or conductors, settlement of, 189, 190

# INDEX

## Stage carriage in the Metropolis— *cont.*

- driver of,
  - agreement between proprietor and, must be in writing, 189
  - carriage of persons beside, 217
  - drunkenness of, penalty for, 217
  - duty of owner to produce, 191
  - employment of unlicensed, penalty for, 213
  - ticket of, 189
- duty to stop for counting passengers or measuring luggage, 213
- enactments as to, application of, to carriages going beyond Metropolis, 188
- examination of, before licensing, 196
- fares,
  - statement of, to be displayed, 214
  - table of, must be displayed in, 212
  - what is legal, 212, 216
- furious driving of, penalty for, 217
- horses on, regulations as to, 216
- infected persons, carriage of, in, 216
- inspection of, regulations as to, 213
- licence for,
  - age for obtaining, 195
  - appeal against refusal of, 196
  - application for, 194
  - Commissioner's power to recall, 199
  - conditions of, 198
  - defacement of, 198, 199
  - discretion of Commissioner as to, 195
  - duration of, 195
  - erasure on, 198, 199
  - fee for, 195
  - form of, 195, 197
  - method of application for, 196
  - power to grant, 191
  - return of, when expired, 199
  - revocation and suspension of, 195, 198
  - surrender up of, 198
  - suspension of, grounds for, 198
  - transfer of, 197

## Stage carriage in the Metropolis— *cont.*

- licence to conduct, 187
  - age for obtaining, 189
  - form of, 189
  - how obtained, 189
  - proprietor must retain, 189
- licences to drive, 187
  - age for obtaining, 189
  - form of, 189
  - how obtained, 189
  - or conduct, when obtainable, 189
  - proprietor must retain, 189
- lights on, regulations as to, 216
- luggage carried by. *See* Luggage
- Metropolitan, definition of, 187
- must bear words "Metropolitan stage carriage," 212
- noise caused by, regulations as to, 215
- notice "not to use," 215
- notices in, what are required, 216
- number plates for, 197
  - offences as to, 198
  - when licence expires, 199
- obstruction by, penalty for, 218
- offences with, procedure as to, 189
- overloading; notice of prosecution for, 190
- owner of, liability of, for offences, 189
- passengers,
  - number of, allowed in, 212
  - must be marked on, 212
  - refusal to admit, when there is room, 218
  - room to be given for, 212, 214
- penalties for offences with, recovery of, 191
- prescribed condition of fitness for, 195
- proprietor, name of, must be painted on, 212
- regulations as to, 213
  - extension of, to vehicles going beyond London, 213
  - regulation of, sources of, 211
- route of, deviation from, forbidden, 215, 217
- size of, limits of, 215
- smoke, emission of, by, 215
- speed of, regulations as to, 215
- in City and Southwark. 212

# INDEX

## Stage carriage in the Metropolis— *cont.*

- stopping at end of street, 218
- stopping - places for, regulations as to, 213
- to what vehicles enactments as to, are applicable, 188
- types of, may be approved collectively, 215
- ventilation of, regulations as to, 216
- vibration in, regulations as to, 215
- warning to be given by, regulations as to, 215
- weight of, limits of, 215
- withdrawal of, penalty for, without leave, 213

## Stage carriage outside the Metropolis

- Borough Councils, powers of, as to, 219
- conductor of, who may license, 219, 220
- disinfection of, 231
- driver of,
  - compensation to, for unproved complaints, 223
  - production of, by proprietor, 222
  - who may license, 219, 220
- driving without a licence, penalty for, 221
- fares of,
  - licensing authority may not seek to control, 220
  - posting of notice of, in, 235, 236
  - recovery of excessive, 236
  - what are legal for, 236
- infected persons, carriage of, in, 231
- lamps on, regulations as to, 235
- licence for,
  - appeal against refusal of, for omnibus, 225
  - application for, 225
  - discretion as to grant of, 220, 225
  - duration of, 226
  - form of, 226
  - must be registered, 235
  - offences as to, 227
  - penalty for giving false information on application for, 226
  - revocation or suspension of, 227
  - to be registered, 226

## Stage carriage outside the Metropolis —*cont.*

- licence to conduct,
  - application for, 220
  - duration of, 221
  - fee for, 221
  - proprietor must retain, 222
  - revocation of, 221
  - suspension of, 221
- licences to drive,
  - application for, 220
  - authority must keep list of, 221
  - duration of, 221
  - endorsement of, 222
  - fee for, 221
  - proprietor must retain, 222
  - must make no entry upon, 222
  - requirements as to, 218, 224
  - revocation of, 221
  - suspension of, 221
  - who may grant, 218
- matters of complaint between driver and proprietor of, procedure for settling, 222
- number to be displayed on, 227, 228
- obstruction of, setting down passengers, 230
- proprietor of,
  - liability of, if driven without licence, 221
  - must notify change of address, 227
- regulation of,
  - by bye-laws, 235
  - sources of, 234
- touting by, regulations as to, 235
- urban councils, powers of, as to, 219
- using unlicensed, penalty for, 227, 228

## Stage coach,

- liability of proprietor for goods carried. *See* Carriage of goods
- when, is an "omnibus," 223

Standing for hire, carriage, is a hackney carriage, 50

Stands. *See* Hackney carriage

## Statement

- of speed. *See* Speed
- weight. *See* Weight

Stating a case. *See* Special case

Station. *See* Railway station

Statutory orders. *See* Orders

# INDEX

Steam-engine, horse-power of, calculation of, 47  
 Steam-roller, attendance necessary with, 96  
 Stone, vessel of, trailer carrying, weight of, 91  
 Stopping after accident. *See* Accident.  
 Stopping-places. *See* Hackney carriage and stage carriage  
 Storage  
     of petroleum. *See* Petroleum  
     vehicles. *See* Garage  
 Street,  
     closing of, to traffic in City, 172  
     construction of, by hackney carriage, 290  
     repairs and causing obstruction, annoyance or danger, 86  
     when permissible, 86  
     requiring mechanical warning in, 186  
     stage carriage stopping at end of, 218  
     stopping at bottom of, with London cab, forbidden, 210  
     what in, 224  
     within Town Police Classes Act, 1867, 74  
 Suburbs of Highway. *See* Highway  
 Sub-way, water, included in term "road," 53  
 Summon, petition for, 94  
     arrested as to  
         excessive weight, 156  
         extraordinary traffic, 156  
 Summons,  
     adjournment for error in, 87  
     contents of, 96  
     error in, as to jurisdiction, 97  
     for improper driving, contents of, 80  
     negligent driving, essentials of, 78  
     non-repair of highway. *See* Highway  
     form of, objections to, 95, 97  
     may be had for duplicity, 76  
     objections to form of, 95, 97  
     procedure when defendant misled by, 97  
     proof of service of, 96  
     service of, 96  
         by post, 96  
         on company, 96  
         proof of, 96  
     statement of case in, 91

Summons—cont.  
     to witness. *See* Witnesses  
     what proceedings begun by, 95  
 Sunday, driving for hire on, permitted, 200  
 Superintendence, permanent,  
     effect of, as to weight limitation, 49  
     unladen weight of, 25  
 Sureties, motor-carriage, 97  
 Surrender of licence. *See* sub Driving licence, etc.  
 Surveyor,  
     certificate of,  
         as to excessive weight. *See*  
         Excessive weight  
         extraordinary traffic.  
         *See* Extraordinary traffic  
     right of, to demand cutting of trees and hedges. *See* Highway  
 Suspension of licence. *See* sub Driving licence, etc.  
     to drive hackney carriage. *See* Hackney carriage  
 Swearing. *See* Abusive language

## T.

Tare of trailer. *See* Trailer  
 Taxation, varieties of, borne by motorists, 43  
 Taximeter,  
     all motor cabs in Metropolis must have, 203  
     definition of, 203  
     extra payments claimable, when cab fitted with, 204  
     fares for cabs fitted with, 203  
     lighting of, regulations as to, 210  
     offences as to, 205  
     regulations as to, on London cabs, 205  
     rules as to operation of, 204, 205  
     seal or mark on, required, 205  
     tampering with, is "falsifying accounts," 185  
 Temporary cause,  
     emission of smoke or vapour by locomotive due to, 9  
     motor car through, 17  
 Ten-mile areas. *See* Speed

# INDEX

## Test

- after construction, use of general licence for, 32
- repairs, use of general licence for, 32
- for petroleum, 112
- when general licence may be used for, 32

"The prescribed distance," definition of, 224

## Theft,

- liability of
  - common carrier for, 124
  - garage proprietor for, 108

Third party, joinder of, in claim as to extraordinary traffic. *See* Extraordinary traffic

Ticket, hackney carriage driver's. *See* Hackney carriage

Tickets. *See* Carriage of passengers

## Time

- for demanding special case. *See* Special case
- lighting. *See* Lighting
- lodging special case at Crown Office, 104
- renewal of licences. *See* *sub* Driving licence, etc.
- hiring of hackney carriage by. *See* Hackney carriage
- statement of, in summons, 97

Timing, satisfactory nature of, question of fact, 69

Tools, loose, weight of, not included in weight unladen, 25, 46

Topographical knowledge, drivers of hackney carriages examined as to, 178

Touting by stage carriage. *See* Stage carriage

Traction engine, law as to, origin of motor car law, 1

## Tractor,

- basis of duty on. *See* Excise duty
- speed of. *See* Speed

Trade identification plates. *See* Identification plates

## Trade vehicles

- rate of duty on. *See* Excise duty
- use of hackney carriage as, 51
- used for, what may be considered, 45
- carriage of employees, 45

## Traffic,

- danger to. *See* Danger
- extraordinary. *See* Extraordinary traffic
- ordinary. *See* Ordinary traffic
- regulation of. *See* Regulation of traffic

## Trailer,

- agricultural machine may be, 90
- attendance required with, 90
- axle-weight of. *See* Axle-weight
- brakes of. *See* Brakes
- construction of. *See* Construction
- effect of drawing by locomotive upon width of tyres required, 11
- fittings of. *See* Fittings
- general licence for vehicle covers, 33
- identification marks on, 38
- lighting of. *See* Lighting
- on bridges. *See* Bridge
- permitted number of, 90, 91
- position of identification plates on, 39
- springs of. *See* Springs
- tare of, affixing incorrect, 91
- must be marked on, 91
- tyres of. *See* Tyres
- unloaded wagons as, 91
- use of, 90
- weight of. *See* Weight
- load of. *See* Weight
- what is, 90
- wheels of. *See* Wheels
- when brakesman needed on, 14
- width of. *See* Width

## Tramcar,

- duration of licence for, 27
- is a stage carriage, 50
- licence for. *See* Licensing of vehicles
- not an "omnibus," 224
- position of, as to obstruction, 85
- rate of duty on. *See* Excise Duty

## Tramlines,

- vehicles used on, position of, as to Excise Duty, 44
- what vehicles used on, are hackney or stage carriages, 50

Tramway, vehicles using, when covered by enactments as to Metropolitan stage carriages, 188

# INDEX

Tramways, fares on, fixed by statute, 216

Transfer

of licence. *See* Licensing of vehicles

licence to drive hackney carriage. *See* Hackney carriage

ownership. *See* Owner

Transparency, lighting of plates by, 39

Transport,

Minister of. *See* Minister of Transport

Ministry of. *See* Ministry of Transport

Trap. *See* Speed

Travelling passes. *See* International law

Trees,

ornamental, protection of, against compulsory cutting, 162

right to cut, where highway prejudiced, 162

Trial

in absence of defendant, 96

non-appearance of informant at, 98

personal appearance of defendant at, 98

Trial of vehicle

after completion, decisions as to what is, 33

by prospective purchaser, use of general licence on, 32

when general licence may be used for, 32

Trials promoted by approved clubs and associations, use of general licence for, 32

Tricycle,

licence for, how, displayed, 29

rate of duty on. *See* Excise Duty

Truck. *See* Trailer

"True owner." *See* Hire-purchase agreement

Tyres

constructed of plates, 4

effect of type of, as to speed of heavy motor cars, 75

elastic, locomotives fitted with, maximum weight of, 11

Tyres—*cont.*

of Crown vehicles, 4

heavy motor car, width of, 4

locomotives, requirements as to power of Minister of Transport to vary, 13

as to width of, 11

motor car, 3

not within locomotive regulations, 11

when required to be flat, 4

smooth, 4

width of, when inelastic, 4

trailer, effect of, as to permitted loads of, 91

width of, 14

use of petroleum for repair of, 117

wheels with,

which are mechanically cushioned. *See* Wheels

which are sprung. *See* Wheels

width of,

effect of diameter of wheel on, 12

how measured, 4

## U.

Unauthorised passengers. *See* Passengers

Units of axle-weight. *See* Axle-weight

Unladen weight governs maximum width of motor car, 3

*See* Weight unladen

Upkeep of roads. *See* Road

Urban councils, powers of, as to hackney and stage carriages. *See* Hackney carriage and Stage carriage

Urban districts, definition of, 219

Urban district council, duty of, as to repair of highway. *See* Highway

## V.

Value, declaration of, of goods before carriage. *See* Carriage of goods

Vapour, how far motor car must consume, 16, 17

## INDEX

Ventilation  
     of petroleum storehouse. *See*  
         Petroleum  
     stage carriages. *See* Stage  
         carriage

Vessel of stone or metal, trailer  
     carrying, weight of, 91

Viaduct, when, included in term  
     "road," 53

Vibration, Metropolitan stage car-  
     riage regulations as to, 215

Visitors from abroad. *See* Foreigners

Void licence. *See sub* Driving  
     licence, etc.

Voluntary driver. *See* Driver

## W.

Waggonette,  
     when covered by enactments  
         as to Metropolitan stage  
         carriages, 188  
     when, is an "omnibus," 223

Wagon,  
     name and address of owner  
         must be painted on, 8, 200  
     what motor vehicles must be  
         regarded as, 8  
     *See* Trailer

Waiting.  
     *See* Hackney carriage  
     to pick up passengers. *See*  
         Passengers

Warning,  
     duty to give, 88  
     instruments of, what are suffi-  
         cient, 8  
     Metropolitan stage carriage  
         regulations as to giving, 215  
     of intended prosecution. *See*  
         Speed

Warrant, 95  
     arrest without. *See* Arrest  
     backing of, 97  
     discretion of justices as to  
         issuing, 95  
     how obtained, 95  
     objection to form of, 95  
     to defendant to appear, 98  
     witness. *See* Witnesses

Water of locomotive,  
     maximum weight of, jointly  
         with fuel and accumulators, 11

Water of locomotive—*cont.*  
     weight of,  
         not included in maximum  
         weight, 11  
     not included in weight un-  
         laden, 3, 25, 46

Weather, effects of, relevant in  
     claim based on extraordinary  
     traffic, 159

Weighbridge,  
     compensation for time lost in  
         proceeding to, 92  
     duty of driver to proceed to, 7  
     penalty for refusal to proceed  
         to, 92  
     proceeding to, use of general  
         licence for, 32  
     public, 7, 92  
     right of authorities to test  
         axle-weight by, 7  
     setting up of, by local authori-  
         ties, 92

Weight,  
     closing bridge to traffic exceed-  
         ing prescribed. *See* Bridge  
     excessive. *See* Excessive weight  
         penalty for, 11  
     maximum,  
         how calculated, 11  
     of cable ploughing engines,  
         weight of windlass  
         not included in, 11  
     locomotive  
         carrying dynamo,  
             11  
         carrying jib-crane,  
             11  
         carrying winding-  
             drum, 11  
         fitted with Boulton  
             wheels, 11  
         fitted with elastic  
             tyres, 11  
         fitted with specially  
             approved wheels,  
             11  
     water fuel and accumu-  
         lators of locomotive,  
         11  
     of load of trailer, 91  
         certificate of, right to,  
             92  
         powers of local authori-  
             ties as to, 91, 92  
     locomotive  
         fraudulent misstate-  
             ment of, an offence, 13  
         maximum, 10

# INDEX

## Weight—*cont.*

### of locomotive—*cont.*

- must be affixed, 13
- powers of local authorities to demand weighing to ascertain, 92
- proportion of, that may be borne by rear axle, 11
- special leave to exceed usual maximum, 10
- Metropolitan stage carriages, 215
- motor car,
  - method of painting on, 6
  - when painting on necessary, 6
- trailer,
  - marking on, 15
  - not limited, 91
- on axle. *See* Axle-weight
- regulations as to, penalty for breach of, 11
- statement of, 6
- unladen,

- as basis of duty, 44, 46
- ascertainment of, use of general licence on journey for, 32

- burden of proof on owner as to, 45

- calculation of, 46

- when vehicle has permanent superstructure, 25

- certificate of, Licensing Council may demand, 27

- Council may by notice summon vehicle to weighbridge to test, 27

- definition of, 3

- effect of, as to speed of heavy motor car, 75

- on requirements as to tyres. *See* Tyres

- maximum, of motor car, 17

- of locomotive, how calculated, 25

- requirement of reversing gear depends upon, 3

- to be entered on licence for vehicle, 28

- trailer, none fixed for, 91
- weight of accumulators not included in, 3

- fuel not included in, 3

## Weight—*cont.*

### unladen—*cont.*

- weight of water not included in, 3

- what included in, 25

- where there are alternative bodies and parts, 25

- width of tyres of locomotive governed by, 11

- Wharf, use of general licence for journey to, 32

## Wheels,

- Boulton, locomotives fitted with, maximum weight of, 11

- diameter of,
  - effect of, upon width of tyres, 12

- is basis of units of axle-weight, 6

- of measurement of, 7

## driving,

- of locomotives,

- construction of, 13

- cross-bars on, 13

- moveable feet on, 13

- pedrail on, 13

- wooden blocks on, 13

- of heavy motor car, minimum diameter of, 7

- locomotives, spikes forbidden on, 13

- trailers, regulations as to, 14

- required effect of brakes on. *See* Brakes

- special approval of types of, for increased weight, 11

- trailer, effect of, as to permitted loads of, 91

- Whistle of heavy locomotive, use of, forbidden, 92

- Widening of bridges. *See* Bridge

## Width

- of locomotive, maximum, 10
- depends on weight unladen, 3

- of motor car, 3

- special leave to exceed usual maximum, 10

- trailers, regulations as to, 14
- tyres. *See* Tyres

- Winding-drum, maximum weight of locomotive carrying, 11

- Winding gear, weight of, not included in maximum weight of cable ploughing engines, 11

## INDEX

- |   |   |
|---|---|
| <p>Windlass, weight of, not included in maximum weight of cable ploughing engines, 11</p> <p>Windows, regulations as to, for London cabs, 210</p> <p>Withdrawal of cabs. <i>See</i> Hackney carriage</p> <p>Withdrawal of omnibuses, penalty for, without leave, 213</p> <p>Witnesses,<br/>             committal of, for refusing evidence, 74</p> | <p>Witnesses—<i>cont.</i><br/>             compelling appearance of, as to a "matter of complaint."<br/>             <i>See</i> Hackney carriage<br/>             compelling attendance of, 74<br/>             summons for attendance of, 74<br/>             warrant for attendance of, 74</p> <p>Wooden blocks on driving wheels of locomotives, 13</p> <p>Wrong side. <i>See</i> Rule of Road</p> |
|---|---|







083

